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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 18/11/2022

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The Hon'ble Mr.Justice **G.ILANGOVAN**

Crl.RC(MD)Nos.1086 and 1088 of 2022

(1)Crl.RC(MD)No.1086 of 2022:-

A.Kesavan : Petitioner/Petitioner

Vs.

1.P.Sankara Narayanan

2.The Inspector of Police,
B-1, Vilakkuthoon Police Station,
Madurai,
Madurai District.

3.The Assistant Commissioner of Police,
(Kovil Saragam),
B-1, Vilakkuthoon Police Station,
Madurai,
Madurai District.

: Respondent/Complainant

PRAYER:- This Criminal Revision has been filed under section 397 r/w 401 of the Criminal Procedure Code to set aside the order, dated 07/10/2022 in Crl.M.P No. 3174 of 2022 passed by the Judicial Magistrate No.1, Madurai, Madurai District.

For Petitioner : Mr.S.Saravanakumar

For 1st Respondent : Mr.C.Prabaharan

For 2nd Respondent : Mr.SS.Madhavan
Government Advocate
(Criminal side)



(2) Cr1.RC(MD) No.1088 of 2022 :-

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A.Kesavan : Petitioner/Petitioner

Vs.

- 1.P.Sankara Narayanan
- 2.The Inspector of Police,
B-1, Vilakkuthoon Police Station,
Madurai,
Madurai District.
- 3.The Assistant Commissioner of Police,
(Kovil Saragam),
B-1, Vilakkuthoon Police Station,
Madurai,
Madurai District. : Respondent/Complainant

PRAYER:- This Criminal Revision has been filed under section 397 r/w 401 of the Criminal Procedure Code to set aside the order, dated 07/10/2022 in Cr1.M.P No. 3175 of 2022 passed by the Judicial Magistrate No.1, Madurai, Madurai District.

For Petitioner : Mr.S.Saravanakumar

For 1st Respondent : Mr.C.Prabaharan

For Respondent : Mr.SS.Madhavan
Government Advocate
(Criminal side)

COMMON ORDER

These criminal revisions have been filed against the orders, dated 07/10/2022 passed in Cr1.M.P Nos.3174 and 3175 of 2022 passed by the Judicial Magistrate No.1, Madurai, Madurai District.

**2.The facts in brief:-**

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One Sankara Narayanan filed a complaint stating that he is running a shop called 'Golden Plaza' in a building belongs to Diocese of Ramnad. He contributed amount with one Ramabai. The amount was contributed by him through this petitioner. He received hand loan from the petitioner, on 02/11/2018, for which, he has also executed a promissory note. He spent more than Rs.6,50,000/- for internal work. The petitioner was receiving Rs.50,000/- as sub-lease amount from him. The Diocese informed him that outstanding amount is Rs.14,45,800/- towards rent. So the Diocese asked him to pay the money. When that was intimated to the petitioner and Ramabai, they were giving some evasive answers. Towards the above said payment of rent arrears, he paid Rs.10,00,000/- to the petitioner. He was also compelled to give false evidence. When that was refused, he was criminally intimidated. That complaint was registered in CSR No.330 of 2022. During the enquiry, it was found that it is purely a civil dispute between the parties. So it was closed. Later, this petitioner gave a complaint against the Sankara Narayanan, on 31/07/2022. Another complaint was given, on 08/08/2022. Both were enquired in



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CSR Nos.334 and 346 of 2022 and both were closed on the ground that it is a civil dispute and a suit is also pending before the District Court. Not being satisfied with the above said closure, these petitions came to be filed.

3.Heard both sides.

4.Reading of the continuous complaints that have been given by the petitioner shows that the original complaint was given stating that the 1st respondent has committed the offence punishable under section 211 IPC. But later improvement was made at the time of filing the impugned petitions before the trial court stating that the 1st respondent has committed the offence punishable under section 466 IPC. So this is nothing, but an improvement.

5.More-over, reading of the enquiry report shows that there was some sort of dispute between the complainant and the private respondent herein with regard to the sublease issue.



6.As observed by the trial court, absolutely, it is a civil dispute, for which, no criminality will lie. More-over, the offence under section 211 IPC cannot be investigated by the police, since it is a non cognizable offence and it is barred under section 195(1)(b) Cr.P.C. Even without noting the same, the above said complaint has been lodged.

7.At the time of argument, the learned counsel appearing for petitioner sought permission of this court to file a private complaint under section 200 Cr.P.C. Such a right is always available to the petitioner and no permission is required, only law permits and not court as suggested by this court in several orders. On such a private complaint is filed, the same must be decided on its own merit, without being influenced any of the observation made, either by this court or by the trial court as stated above.

8.Mover-over in the facts and circumstances of the case, whether the offence under section 406 IPC will be made out is also questionable one. So absolutely, I find no reason to entertain these revisions and both are liable to be dismissed.



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9. In the result, both criminal revisions are
dismissed.

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18/11/2022

Index:Yes/No
Internet:Yes/No

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To,

1. The Judicial Magistrate No.1,
Madurai.
2. The Inspector of Police,
B-1, Vilakkuthoon Police Station,
Madurai,
Madurai District.
3. The Assistant Commissioner of Police,
(Kovil Saragam),
B-1, Vilakkuthoon Police Station,
Madurai,
Madurai District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G. ILANGO VAN, J

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Cr1.RC(MD)Nos.1086 and 1088 of 2022

18/11/2022