



Crl.R.C. No.752 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.08.2023

CORAM

THE HONOURABLE MRS. JUSTICE **R.HEMALATHA**

Crl.R.C.No. 752 of 2023

M. Balasubramani

...Petitioner

Vs.

1. Inspector of Police
Kannankuruchi Police Station,
Salem City.
2. Mallika
3. Masiya @ Uma
4. Rajendran
5. Menaka

...Respondents

Prayer : Criminal Revision filed under Section 397 r/w 401 Cr.P.C. against the order dated 08.02.2023 passed in Crl.M.P. No.5975/2022 on the file of the Judicial Magistrate No.IV, Salem.

For Petitioner : Mr. R. Muthu Ramananand

For R1 : Mr.R. Vinothraja
Government Advocate (Crl. Side)

For R2 to R5 : Mr. G. Mohan



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ORDER

Challenging the orders dated 08.02.2023 passed in Crl.M.P. No.5975/2022 on the file of the Judicial Magistrate No.IV, Salem, the present Criminal Revision is filed.

2. The revision petitioner filed the above said petition under Section 156(3) Cr..P.C. before the Judicial Magistrate No.IV, Salem, for a direction to the Inspector of Police, Kannankuruchi Police Station, Salem City, to register an FIR on the complaint given by him and to investigate the case. The learned Judicial Magistrate No.IV, Salem, dismissed the said petition on the ground that the dispute involved between the parties is civil in nature. Aggrieved over the same, the present Criminal Revision is filed.

3. Heard Mr. R. Muthu Ramananand, learned counsel for the petitioner, Mr.R.Vinothraja, learned Government Advocate (Crl.Side) for the 1st respondent and Mr. G. Mohan, learned counsel for the respondents 2 to 5.



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4. Mr. R. Muthu Ramananand, learned counsel for the petitioner contended that in the complaint the complainant had clearly indicated certain cognizable offences committed by the private respondents herein which the trial court judge, did not take into consideration and dismissed the petition merely on the ground that the dispute between the parties is civil in nature.

5. Per contra, Mr.R.Vinothraja, learned Government Advocate for the 1st respondent contended that the 3rd respondent Masiya @ Uma lodged a complaint against the present revision petitioner for the offences punishable under Section 147, 294(b), 427, 506(i) IPC and 18D of Transgender Persons (Protection of Rights) Act 2019 and an FIR in Crime No.157/2023 was registered against the present revision petitioner. His further contention is that the complaint lodged by the present revision petitioner was given Current Petition No.397/PGP/DCP/North/SLMC/2023 and after conducting preliminary enquiry, the said complaint was closed.



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6. It is pertinent to point out that the present revision petitioner had stated that he is the owner of the property in Survey No.54/4 of Kannankuruchi Village and that the private respondents herein attempted to disturb his possession and also abused him in filthy language and criminally intimidated him. While the present revision petitioner filed a suit in O.S. No.408/2018 before the Subordinate Judge, Salem, seeking for declaration of his title in respect of the abovesaid property and also for a consequential relief of permanent injunction restraining the respondents 3 and 4 herein, the 3rd respondent herein filed a separate suit in O.S. No.387/2021 for a bare injunction on the file of the Additional District Munsif, Salem, in respect of the very same property. Both the suits are still pending. Since the police also conducted a preliminary enquiry on the complaints lodged by both the parties and closed the complaint lodged by the present revision petitioner, the judicial magistrate was right in dismissing the petition filed by the present revision petitioner under Section 156(3) Cr.P.C, especially in the light of the fact that both the parties had approached the civil court by way of filing suits to resolve their disputes.



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7. In the circumstances, I do not see any reason to interfere with the orders passed by the learned Judicial Magistrate No.IV, Salem.

8. In the result,

- i. the Criminal Revision Petition is dismissed.
- ii. The orders dated 08.02.2023 passed in Crl.M.P. No.5975/2022 on the file of the Judicial Magistrate No.IV, Salem, is confirmed.

08.08.2023

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
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R. HEMALATHA, J.
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To

1. The Judicial Magistrate No.IV, Salem
2. The Inspector of Police
Kannankuruchi Police Station,
Salem City.

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