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Crl.R.C.No.1260 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.08.2023

CORAM

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

Crl.R.C.No.1260 of 2023

P.Raja

... Petitioner

Vs.

1. The State rep. by
the Commissioner of Police,
Chennai Metropolitan Corporation,
Chennai.

2. The Inspector of Police,
K-4, Anna Nagar Police Station,
Chennai - 600 040.

... Respondents

Prayer : Criminal Revision filed under Section 397 of Criminal Procedure Code, to set aside the order dated 12.05.2023 passed in Crl.M.P.No.38601 of 2022 by the learned V Metropolitan Magistrate, Egmore, Chennai.

For Petitioner : Ms.Sudharsana sundar for
Mr.SR.Mounaswamynathan

For Respondents : Mr.R.Vinothraja,
Government Advocate (Crl. side)



Crl.R.C.No.1260 of 2023

WEB COPY

ORDER

Challenging the orders, dated 12.05.2023 passed in Crl.M.P.No.38601 of 2022 by the learned V Metropolitan Magistrate, Egmore, Chennai, the present Criminal Revision is filed by the petitioners/complainant.

2. The revision petitioner filed a complaint under Section 156(3) of Cr.P.C. in Crl.M.P.No.38601 of 2022, seeking to refer the complaint of the petitioner dated 14.12.2021 to the 2nd respondent / Inspector of Police, K-4 Anna Nagar Police Station, Chennai to register FIR and to investigate the case. The learned V Metropolitan Magistrate, Egmore, Chennai, dismissed the said petition on 12.05.2023, by observing thus:

“10. On perusal of the petition and records filed along with the petition, it is revealed that one Kavitha has been introduced by known person one Dhanasekar and thereafter she approached the petitioner to open a Ladies Hostel so that it will give monthly income and believing the word of the Kavitha the petitioner gave consent for the same. From the beginning itself the Kavitha states that since the



WEB COPY

petitioner is not a native of Chennai and therefore the house owner has not come forward to put a rental agreement in favour of the petitioner's name but the petitioner did not accept the same and thereafter a joint agreement has been signed on 01.07.2018 by the petitioner by giving Rs.8,00,000/- as a advance amount through the Kavitha on 19.05.2018 and accepted to pay Rs.1,30,000/- for every month as monthly rental.

11. In the month of July 2018 in order to develop the infrastructure and other amenities of the said Hostel the petitioner gave Rs.30,00,000/- in installment basis but the kavitha receiving the same did not complete own 30% of the work and thereafter the petitioner on October 2018 took all the management works and completed all amenities works in his own money of Rs.15,00,000/- and totally Rs.45,00,000/-. After he took the House Management he requested the Kavitha to return Rs.45,00,000/- which the petitioner gave to develop the necessary amenities work like installing AC, Fridge, Washing Machine and Electrical work articles for cooking and after continuous demand she gave a return agreement on 18.03.2019, promise to repay the amount and failed to return.

12. The Kavitha gave a idea to open ladies hostel so that it will give on monthly income and later on she has been cheating the petitioner solely in a way by receiving money for



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various things but not taken any steps to do the same and thereafter only the petitioner understood that she is using the innocent character of the petitioner by receiving money from the petitioner worth about Rs.45,00,000/- and failed to return the same and later on started threatening the petitioner.

13. At later stage the petitioner demanded to return Rs.45,00,000/- which was given to develop the amenities in the hostel and having the malafide intention she gave a false complaint by using her political power and muscle power to register the complaint against the petitioner and remanded the petitioner and thereafter he came out on bail. After he came out on bail he was not permitted to enter in the hostel premises and she gave threaten to the petitioner by not even permitted to see the house hold articles and what had happen and also the advance amount not returned to the petitioner so far. The said Kavitha received a sum of Rs.30,00,000/- and cheated the petitioner and also using her political power she gave a solid threat by not even permitting to see the hostel premises and saying that if the petitioner enter into hostel premises she will kill the petitioner and giving life threat to the petitioner.

14. The petitioner left with no other alternative he lodged a complaint to the 1 respondent through registered post on 14.12.2021 and the same was received and forwarded



Crl.R.C.No.1260 of 2023

WEB COPY

to the 2 respondent but the 2 respondent not yet taken any action against Kavitha so far. Hence, he prayed that this court may be pleased to refer the complaint of the petitioner dated 14.12.2021 to the Inspector of Police, K-4 Anna Nagar Police Station, Chennai and register the case and produce in accordance with law.

15. On perusal of this complaint of the Petitioner, the complainant gave a sum Rs. 45,00,000/- to one Tmt.Kavitha for running a New Ladies Hostel and made a Joint agreement. But Tmt. Kavitha not returned his money and not allowed to him to enter in the hostel premises. If it is so, the petitioner ought to have filed a civil suit before the competent civil court to recover the advance amount paid by him. There is no prima facie case and cognizable offence is made out in this case. Hence there is no need to forward the complaint before the Station House Officer, K-4 Anna Nagar Police Station under Section 156 (3) of Cr.P.C., Hence, this Complaint is dismissed.”

3. Thus it is seen from the private complaint given by the present petitioner that the petitioner had paid a sum of Rs.45 lakhs to one Kavitha for running a new Ladies hostel and also entered into an



Crl.R.C.No.1260 of 2023

WEB COPY

agreement. Since the petitioner is not able to recover money from her and also not allowed to enter the hostel premises, he has approached the trial Court seeking direction to the respondent Police to register an FIR. This Court is of the view that if the present petitioner is unable to recover money from the said Kavitha, he has to approach the Civil Court, if he is so advised. Therefore, the order passed by the trial Court is perfectly in order and I do not see any reason to interfere with the orders of the trial Court. Accordingly the Criminal Revision is dismissed at the admission stage itself.

10.08.2023

Index: Yes/No
Speaking/Non-Speaking order
vum



Crl.R.C.No.1260 of 2023

To
WEB COPY

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Egmore, Chennai
2. The Commissioner of Police,
Chennai Metropolitan Corporation,
Chennai.
2. The Inspector of Police,
K-4, Anna Nagar Police Station,
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WEB COPY



Crl.R.C.No.1260 of 2023

R. HEMALATHA, J.

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Crl.R.C.No.1260 of 2023

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