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Crl.R.C.No.1542 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2023

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

Crl.R.C.No.1542 of 2023

M.Dayalan

... Petitioner

Vs.

The State Represented by
the Inspector of Police,
S7 Madipakkam Police Station,
Chennai - 600 117.

... Respondent

Prayer : Criminal Revision filed under Section 397 r/w. 401 of Criminal Procedure Code, to set aside the orders dated 04.08.2023 passed in C.M.P.No.2263 of 2023 by the Judicial Magistrate-II, Alandur.

For Petitioner : Mr.G.V.Sridharan

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

ORDER

Challenging the orders dated 04.08.2023 passed in C.M.P.No.2263 of 2023 on the file of the Judicial Magistrate-II, Alandur, the present criminal revision is filed.



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2. The revision petitioner/complainant filed a private complaint under Section 200 of Cr.P.C., before the Judicial Magistrate II, Alandur, seeking a direction to the Inspector of Police, S-7 Madipakkam Police Station, Chennai to register an FIR on the complaint given by him on 29.05.2023 and investigate the case under Section 156 (3) Cr.P.C. The learned Judicial Magistrate II, Alandur after perusing the entire complaint filed by the complainant, dismissed the same on 04.08.2023. Aggrieved over the same, the the present revision is filed.

3. The case of the petitioner / complainant is that he is doing Real Estate business and he approached one Kotteeshwaran for purchase of a land in S.No.320/2 of Ninnaikaranai Village, Kattangulathur. In this regard, an agreement of sale was executed between the complainant and Kotteswaran wherein Kotteeshwaran promised the complainant that he would purchase a land in S.No.320/2 from one Pandurangan who is the owner of the land and obtained a sum of Rs.25,00,000/- from the complainant. According to the complainant, the said Kotteeshwaran did



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not keep up his promise and in the meanwhile the owner of the land viz., Pandurangan died. Hence, the complainant demanded Kotteeshwaran to honour his commitment or to return his money back, on account of which, Kotteeshwaran along with the legal heirs of the deceased Pandurangan threatened the complainant with dire consequences. Hence, the complainant lodged a complaint with the Inspector of Police, S-7, Madipakkam Police Station, Chennai. Since no action was initiated by the Police, the complainant filed a private complaint before the Judicial Magistrate II, Alandur under Section 200 Cr.P.C., seeking a direction to the respondent Police to register FIR and investigate the case under Section 156 (3) Cr.P.C.

4. The learned Judicial Magistrate II, Alandur after perusing the entire complaint dismissed the same on the following grounds:

- i. The complainant had executed the agreement of sale in the year 2012 and also produced the settlement deed executed by the deceased Pandurangan to his legal heirs in the year 2013;



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ii. However the complainant states that he is in possession of the land;

iii. The complainant did not explain the delay in taking steps against Kotteeshwaran, Pandurangan and his legal heirs in his affidavit and he has not stated the date, time and the place of the alleged occurrence of crime committed by the accused.

Aggrieved over the same, the present revision is filed.

5. Mr.G.V.Sridharan, learned counsel for the revision petitioner contended that the agreement of sale was executed between the complainant and Kotteeshwaran in the year 2012 and Kotteeshwaran also handed over the original Title Deeds of the property in S.No.320/2 of Ninnaikaranai Village, Kattangulathur to the complainant. According to him, Kotteeshwaran after receiving a sum of Rs.25 lakhs from him, did not come forward to execute the sale deed or return back his money. It is his further contention that when the complainant approached Kotteeshwaran and the legal heirs of the deceased Pandurangan for execution of the sale deed, they all threatened him with dire



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consequences and his complaint to the respondent Police evoked no response. It is his further contention that the Magistrate also dismissed the complaint merely on the ground that there is a delay in taking legal action against the accused. According to him, if an FIR is registered, the persons who cheated him would return the money back to him.

6. Per contra, Mr.R.Vinothraja, learned Government Advocate (Crl. side) contended that the complaint preferred by the complainant was enquired by the Inspector of Police, S7 Madipakkam Police Station and the same was closed since the complainant himself gave an undertaking that he would settle his dispute before the Competent Court. According to him, the matter in dispute is purely civil in nature. Therefore, there is no necessity for directing the respondent Police to register an FIR and investigate the case under Section 156 (3) Cr.P.C.

7. A perusal of the private complaint given by the present complainant and other records shows that the complainant and Kotteeshwaran executed an agreement of sale dated 15.12.2013 in



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respect of the property in S.No.320/2 of Ninnaikaranai Village, Kattangulathur measuring 0.25 1/2 cents. In the sale agreement, it is clearly stated that the property belonged to one Pandurangan. At this juncture, it is relevant to point out that the complainant is not an illiterate and he is doing Real Estate Business. Knowing fully well that the property in S.No.320/2 of Ninnaikaranai Village, Kattangulathur is not owned by Kotteeshwaran, the complainant had given a sum of Rs.25lakhs to Kotteeshwaran towards sale consideration. It is not known as to when the complainant approached Kotteeshwaran to execute the sale deed in respect of the said property in his favour. The complaint is bereft of the particulars. Moreover, the complainant had not also stated as to when Kotteeshwaran and the legal heirs of deceased Pandurangan threatened him with dire consequences. Since the dispute between the complainant and the accused is purely civil in nature as stated by the learned Government Advocate (Crl.side), the complainant is directed to approach the Civil Court to get his money back from the person to whom he had allegedly paid a sum of Rs.25 lakhs, if so advised.



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8. With the above observation, the Criminal Revision is dismissed.

20.09.2023

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

To

1. The Judicial Magistrate-II, Alandur.
2. The Inspector of Police,
S7 Madipakkam Police Station,
Chennai - 600 117.



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R. HEMALATHA, J.
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