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Crl.R.C.No.160 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2023

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THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.R.C.No.160 of 2023

R. Durai

... Petitioner

Vs.

The Inspector of Police,
J-7, Velachery Police station,
Velachery, Chennai 600 042

... Respondent

PRAYER: Criminal Revision Case filed under Section 397 and 401 of Cr.P.C. to call for the records of the learned XVIII Metropolitan Magistrate, Saidapet, Chennai-15 in CrlM.P.No.4973 of 2022, by order dated 21.04.2022 in dismissing the Crl.M.P. filed by the petitioner herein.

For Petitioner : M/s.G.V.Sridharan

For Respondent : Mr.V. Meganathan
Govt. Advocate (Crl.Side)



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ORDER

This Revision is filed challenging the order dated 21.04.2022 passed by the XVIII Metropolitan Magistrate, Saidapet, Chennai in Crl.M.P.No.4973 of 2022, dismissing the petition seeking to register his complaint and take action against the accused persons.

2. The learned counsel for the petitioner submitted that at the request of one Senthil Kumar, who is colleague of the petitioner, he lent a sum of Rs.10,00,000/- as hand loan to him on various dates and the loan has to be repaid along with interest at the rate of 24% per annum. The said Senthilkumar also executed debt agreement towards the borrowed amount and the same was witnessed by his wife Malarkodi. Thereafter, the abovesaid Senthilkumar, neither paid interest nor paid the principal amount. Hence, the petitioner gave a complaint against the abovesaid persons in 2017 to the Inspector of Police, Velachery, Chennai 600 042, but the respondent police did not take any coercive action against the abovesaid persons. Thereafter, the petitioner gave complaint before the Commissioner



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of Police on 07.09.2017, since there was no action taken on the part of the police, he then lodged another complaint before the Central Crime Branch. On enquiry, the said Senthilkumar and Malakrodi requested to grant time for settling the amount, but they did not settle the same. Again, on 21.12.2021, he gave a fresh complaint before the respondent police. Both the accused appeared in the month of December 2021 and seeks further three months time to settle the amount. Therefore, in order to take effective action against the accused, the petitioner filed Crl.M.P.No.4973 of 2022 before the XVIII Metropolitan Magistrate, Saidapet Chennai, seeking to direct the respondent police to register the FIR against the accused persons.

3.He further submitted that the trial court, after hearing the petitioner, instead of forwarding the complaint under section 156(3) Cr.P.C. to the police for investigation, dismissed the same on the ground that the issue involved in the complaint is civil in nature and no prima facie case is made out for commission of cognizable offence. Thus, he prayed for set aside the impugned order passed by the trial court.



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4. Learned Govt. Advocate (crl.side) supporting the order of the Magistrate, contended that there is no prima facie allegation for commission of cognizable offence is made out and hence, the impugned order passed by the court below is in order. Thus, he prayed for dismissal of this revision.

5. I have considered the materials available on record in the light of the submissions made by the parties.

6. Perusal of records reveal that in the complaint, the allegation raised by the complainant is that the respondent received a sum of Rs.4 lakhs on 19.2.2016; 3 lakhs on 24.2.2016 and another 3 lakhs on 24.2.2016 by executing a debt agreement on 19.2.2016 and 24.2.2016 respectively in the presence of one Malarkodi, wife of Senthil Kumar.

7. Apart from this allegation, the petitioner has stated that the accused persons did not repay the interest or the principal amount. But there is no allegation of commission of criminal offence. Therefore, the



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trial court rightly found that there is no prima facie allegation raised in the complaint for taking cognizance and to forward the same to the respondent police for investigation under section 156(3) Cr.P.C. I find no reason to interfere with the impugned order passed by the court below. In view of the above, this Criminal Revision Case is dismissed.

01.02.2023

msr

Index:yes/no

Internet:yes/no

To

1. The XVIII Metropolitan Magistrate,
Saidapet, Chennai-15.
2. The The Inspector of Police,
J-7, Velachery Police station,
Velachery, Chennai 600 042
3. The Public Prosecutor,
High Court of Madras, Chennai.

V.SIVAGNANAM, J.,



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