



Crl.R.C.(MD)No.136 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.07.2023

CORAM

THE HON'BLE MR.JUSTICE P.DHANABAL

Crl.R.C.(MD)No.136 of 2019

P.Sorimuthu

... Petitioner

Vs.

1.R.Natarajan

2.Saraswathi

3.Mariammal

4.Esakkithurai

5.Arumugasamy

6.Ramar

7.The Inspector of Police,
Vasudevanallur Police Station,
Vasudevanallur,
Tirunelveli District.

... Respondents

PRAYER : Criminal Revision Case filed under Section 397 & 401 of the Code of Criminal Procedure, to set aside the order dated 22.01.2019 passed by the Judicial Magistrate, Sivagiri and consequently direct the seventh respondent to register the case in complaint dated 06.09.2018.

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For Petitioner : Mr.S.Muthumalairaja

For R1 to R6 : Mr.P.Balamurugan

For R7 : Mrs.Aasha,
Government Advocate (Crl. Side)

ORDER

This Criminal Revision Case has been filed to set aside the order dated 22.01.2019 passed by the Judicial Magistrate, Sivagiri and consequently direct the seventh respondent to register the case in complaint dated 06.09.2018.

2.According to the petitioner, on 05.09.2018, at about 06.00 pm., when the petitioner was in his land, all the accused persons trespassed into the property and damaged the crops, worth about Rs.15,000/-. Therefore, he lodged complaint before the seventh respondent and CSR also issued. However, no action was taken by the seventh respondent. Therefore, the petitioner approached the learned Judicial Magistrate,



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Sivagiri by filing petition under Section 156(3) Cr.P.C. But the learned Magistrate has dismissed the petition by holding that this case is purely civil in nature and directed the petitioner to seek remedy through civil Court. As against the said order, the petitioner preferred the present revision case.

3.The learned counsel appearing for the petitioner has contended that as per complaint, offences under Sections 120(B), 447, 427 are made out. But the learned Magistrate, without considering the same, simply dismissed the application by holding that this is civil dispute.

4.The learned counsel appearing for the private respondents has contended that already civil suit is pending from the year 2009 and no occurrence was happened as alleged in the complaint and thereby, the learned Magistrate correctly dismissed the application.

5.The learned Government Advocate(Crl.side) appearing for the official respondent has contended that already based on the complaint, CSR was given and thereafter, the police has not taken any action. In the



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meantime, the petitioner filed application under Section 156(3) Cr.P.C before the learned Magistrate and the same was also dismissed.

6.Heard both sides and perused the materials available in the record.

7.It is admitted fact that civil suit is pending from the year 2009 and further, as against this petitioner a counter case in Cr.No.265 of 2018 for the offence under Sections 447 IPC and Sections 3(1)(r), 3(2)(va) of SC/ST (POA)Amendment Act, 2015 is pending. In the meantime, the petitioner has lodged the complaint before the seventh respondent by stating that on 05.09.2018, the private respondents herein trespassed into the property and damaged crops worth about Rs.15,000/-. The seventh respondent also gave CSR and he has not taken any action. Thereafter, the petitioner preferred a private complaint before the learned Magistrate and the learned Magistrate, after perusing the complaint, dismissed the same by holding that the dispute between the parties is purely civil in nature and directed the petitioner to approach the civil Court for appropriate remedy.



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8. On careful reading of the complaint, it is revealed that the private respondents have trespassed into the property and damaged some crops in the land. There is civil dispute is pending between the parties and criminal cases are also pending. The civil suit is filed for permanent injunction. The possession of the parties cannot be decided and the same can be decided only through civil Court. The learned Magistrate dismissed the complaint by holding that the dispute is civil in nature. However, in the complaint there are some allegations to attract the offences under Sections 427 & 447 IPC. However, the possession itself is in question and the same is pending before the civil Court and thereby, it is not appropriate to allow this petition and the petitioner is at liberty to approach the civil Court for appropriate remedy.

9. In the result, this criminal revision case is dismissed.

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NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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P. DHANABAL,J.

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To

- 1.The Judicial Magistrate, Sivagiri
- 2.The Inspector of Police,
Vasudevanallur Police Station,
Vasudevanallur,
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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