



CrI.R.C.(MD).No.984 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 24.07.2023

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

CrI.RC.(MD).No.984 of 2022

Eswaran

... Petitioner

Vs.

1.The Inspector of Police,
Cumbum North Police Station,
Cumum,
Theni District.

2.K.N.M.Abbas,

3.Jamal Mohamed

4.Thiru.Kannan

5.P.Thangam

... Respondent

PRAYER: Criminal Revision Case filed under Section 397 and 401 r/w 482 of Criminal Procedure Code, to allow the Criminal Revision Case by setting aside the order passed in Cr.M.P.No.4965 of 2022 on the file of the Judicial Magistrate, Uthamapalayam dated 23.08.2022.



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For Petitioner : Mr.K.R.Manimaran
For respondents : Mr.M.Vaikkam Karunanithi
Government Advocate (Crl.Side)
for R1
: Mr.K.Saburkhan for R2 & R3

ORDER

The petitioner filed Crl.M.P.No.4965 of 2022, on the file of the Judicial Magistrate, Uthamapalayam under Section 156(3) of Criminal Procedure Code to take action against the respondent.

2. The learned Judicial Magistrate, by impugned order dated 23.08.2022, dismissed the petition stating that the dispute is civil in nature and also the petitioner has settled the property dispute by giving a criminal complaint. Further, the learned trial Judge held that there is no criminality is made out. Challenging the same, the petitioner filed this criminal revision case before this Court.

3. The learned counsel for the petitioner submitted that the petitioner handed over a sum of Rs.4,15,000/- as advance to purchase the



land from one Mrs.Latha. According to the petitioner, the respondents were arranged to purchase the land from the said Latha. Thereafter, he did not repay the amount and paid only a portion of amount. Hence, he made a complaint before the jurisdictional police. The jurisdictional police did not take any action against the respondent. Hence, he has filed a petition before the learned Judicial Magistrate, under Section 156(3) Cr.P.C.

4. The learned counsel for the respondent Nos 2 and 3 submitted that after the receipt of a sum of Rs.1,00,000/- from the second respondent the alleged sale agreement was subsequently cancelled by the petitioner. According to the petitioner, he agreed to receive the amount from the respondent Nos. 4 and 5. He also submitted that the petitioner, after number of years by giving a criminal colour to the civil dispute, filed this petition.

5. It is submitted by the learned Government Advocate (CrI.Side) that earlier a complaint is made and the same was enquired and closed. The said statement is recorded by the Court, by order, dated 03.11.2022,



which reads as follows:

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2. The learned Additional Public Prosecutor submitted that the complaint was enquired in C.No.36/SPL-CM-SDO-U and C.No. 42/G3/CM/C1-CBM-N/2022 and finding that it is a civil dispute between the parties, it was closed on 13.03.2022.

6. This Court considered the rival submissions made on either side and perused the materials available on record.

7. Admittedly, the petitioner did not make any agreement with the original owner Mrs.Latha. It is the case of the petitioner that the respondents were arranged to purchase the land from the said Latha and hence, he handed over the money to the petitioner. According to the learned counsel for the private respondents, the said agreement was cancelled after the receipt of a sum of Rs.1,00,000/- and a further undertaking to receive the remaining amount from the respondents 4 and 5. In that event, he ought to have filed a suit for recovery of amount, on the basis of the undertaking. Without approaching the civil Court, he



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filed this application after the number of years, without any criminality in the said case. The said submission of the learned counsel for the respondents 2 and 3 defend to be accepted and hence, the learned trial Judge correctly dismissed the petition filed under Section 156(3) of Cr.P.C. Therefore, this Court is inclined to dismiss this case.

8. Accordingly, this criminal revision case stands dismissed.

24.07.2023

NCC :Yes / No
Index :Yes / No
Internet :Yes / No

sbm

To

The Judicial Magistrate, Uthamapalayam.



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K.K.RAMAKRISHNAN, J.

sbn

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