



WEB COPY



Crl.RC.No.201 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.07.2024

CORAM:

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

**Crl.RC.No.201 of 2024
and
Crl.M.P.No.3617 of 2024**

Devendar Betala,
AGL Electronics,
Express Avenue Mall, SL-11, Basement Floor,
Club House Road,
Mount Road,
Chennai - 600 014.

... Petitioner

Vs.

The Inspector of Police,
D-2 Anna Salai Police Station,
Crime Branch, Anna Salai,
Chennai - 600 002.

... Respondent

PRAYER: Criminal Revision case filed under Section 397 & 401 of Cr.P.C. to set aside the impugned order dated 13.10.2023 in Crl.M.P.No.38631 of 2023 on the file of the learned II Metropolitan Magistrate, Egmore, Chennai and consequently, direct the respondent herein to register FIR based on the information reported by the petitioner herein on 19.08.2023.

For Petitioner : Mr.D.Saikumarran



WEB COPY



Crl.RC.No.201 of 2024

For Respondent : Mr.A.Gopinath
Government Advocate (Crl.Side)

ORDER

The petitioner is before this Court seeking to set aside the impugned order dated 13.10.2023 in Crl.M.P.No.38631 of 2023 on the file of the learned II Metropolitan Magistrate, Egmore, Chennai and to direct the respondent Police to register FIR based on the information reported by the petitioner on 19.08.2023.

2. The facts required for the disposal of this criminal revision is that the petitioner is a partnership firm involved in retail sales of electronic gadgets. The petitioner firm entered into three agreements, namely, Leave and License Agreement, Common Area Maintenance Agreement and Facility & Utility Agreement on 03.11.2016. The duration of the agreement was three years. The petitioner firm paid security deposit of Rs.10,71,859/- and other incidental charges. Due to COVID pandemic, there were differences between the parties on payment of rent, which was referred to arbitration. The Arbitrator, vide award dated 29.09.2022 in O.A.No.46 of



Crl.RC.No.201 of 2024

2021 directed the petitioner firm to pay a sum of Rs.13,88,090.72 and to handover the vacant possession of the store to the Management. The petitioner firm has challenged the above award before this Court and the same is pending. In the meantime, on 15.11.2022, the petitioner locked the store and when he visited the store next day morning, it was seen that, the Management has placed barricade around the store and wrongfully restrained the petitioner from entering the store. It was also informed by the adjacent store owners that the products belonging to the petitioner firm were unauthorisedly removed from the store. Hence, the petitioner attempted to set the criminal law in motion. Therefore, the petitioner made a complaint to the respondent Police on 19.08.2023. The investigation agency closed the case as civil in nature, vide letter dated 07.09.2023. In the meanwhile, the petitioner approached the learned II Metropolitan Magistrate, Egmore, Chennai under Section 156(3) of Cr.P.C ,which was dismissed as civil in nature. Against which, the present revision has been filed.

3. The learned counsel appearing for the petitioner firm challenges the



impugned award on the ground that the petition filed before the learned Magistrate discloses commission of cognizable offences under Sections 341, 379, 382 and 447 IPC and that the learned Magistrate failed to take into consideration that the Management has forcibly entered into premises and took away electronic gadgets and valuable worth of Rs.1,50,00,000/- from the store of the petitioner. He also submits that the learned Magistrate ought to have considered the complaint and the criminality committed by the accused. He further submits that since the property belongs to the petitioner has been forcibly taken away from the store of the petitioner, the learned Magistrate ought to have gone into question of serious criminal offence committed by the accused and ought not to have termed it as a civil dispute. Hence, he prays for setting aside the award.

4. The learned Government Advocate appearing for the respondent Police submits that they issued summons to both the parties on 24.08.2023 and conducted enquiry. He further submits that the legal head of EA one Kalaimani Dharmaraj appeared for enquiry on 31.08.2023 and also on 04.09.2023, had given a reply stating that the matter of dispute is civil nature



Crl.RC.No.201 of 2024

and they have decided to go before the Court of law for further remedy. On the contrary, the petitioner did not appear for enquiry. Hence, the respondent served the closure letter on 07.09.2023.

5. I have considered the said submissions made by the learned counsel appearing for both sides and perused the materials placed before this Court.

6. It is seen that there has an arbitration proceedings between the petitioner and the management and that the arbitration award has been passed on 29.09.2022. It is also seen that the learned Magistrate has arrived at a *prima facie* satisfaction that it was a civil dispute which was termed to be given a criminal colour and that cannot be allowed as it is an abuse process of law, accordingly the learned Magistrate dismissed the said Crl.M.P.No.38631 of 2023. This Court after going through the facts and materials placed on record does not find any reason to interfere with the order passed by the learned II Metropolitan Magistrate, Egmore, Chennai.

7. Accordingly, this Criminal Revision Case is dismissed.



Crl.RC.No.201 of 2024

Consequently, connected miscellaneous petition is closed.

WEB COPY

24.07.2024

NCC : Yes / No
Index : Yes / No
Speaking order : Yes / No

vji

To

1. The learned II Metropolitan Magistrate,
Egmore, Chennai.
2. The Public Prosecutor,
Madras High Court.



WEB COPY



Crl.RC.No.201 of 2024

M.DHANDAPANI, J.

vji

**Crl.RC.No.201 of 2024
and
Crl.M.P.No.3617 of 2024**

24.07.2024