



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P No.2709 of 2024

Leo Tolstoy

...Petitioner

Vs.

1.R.Duraisamy

2.P.Palanisamy

3.N.Baskar

4.N.Loganathan

5.R.Devarajan

...Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to set aside the order of dismissal made in C.R.P.No.46/2022 dated 1.11.2023 on the file of the learned I Additional District and Sessions Judge, Namakkal confirming the order of dismissal made in CrI.MP.1186/2019 dated 10.8.2022 on the learned Judicial Magistrate, No.I, Namakkal.

For Petitioner : Mr.B.Mohan

ORDER

This criminal original petition has been filed challenging the order passed by the Court below in C.R.P.No.46/2022 dated 01.11.2023, confirming the order passed by the learned Judicial Magistrate, No.I, Namakkal in CrI.MP.1186/2019 dated



10.8.2022, whereby, a private complaint filed by the petitioner was dismissed under Section 203 of Cr.P.C., on the ground that no *prima facie* case has been made out in the complaint.

2.This Court has carefully considered the submissions made by the learned counsel for the petitioner and the materials available on record. This Court also carefully went through the order passed by both the Courts below.

3.In the considered view of this Court, the illegality or otherwise of the promissory note which is the subject matter in O.S.No.100 of 2015, is now a subject matter before this Court in the second appeal that has been filed by the petitioner. Till now, there are no materials to come to a conclusion as to whether the promissory note is genuine or it has been taken from the petitioner by force. Before the Civil Court, there is no finding to the effect that the promissory note is illegal. If that is the case, the petitioner cannot parallelly prosecute the criminal case against the respondent. It is always left open to the petitioner to workout the remedy in the second appeal regarding the genuineness or otherwise of the promissory note.

4.This Court while exercising its jurisdiction under Section 482 of Cr.P.C., cannot deal with the same like an appeal or a second revision. The court must assess, whether the findings of the Court below suffers from infirmity or perversity. Both the



Courts below have assigned proper reasons for dismissing the complaint and the same does not warrant the interference of this Court.

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5. In the light of the above, this criminal original petition stands dismissed.

12.02.2024

Index: Yes/No
Internet: Yes/No
ssr

To

1. The I Additional District and Sessions Judge, Namakkal.

2. The Judicial Magistrate, No.I, Namakkal.

2. The Public Prosecutor,
High Court, Madras.



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N.ANAND VENKATESH, J

SSR

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