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Crl.R.C.No.1404 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2024

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1404 of 2023

S.Dayalan

... Petitioner

Vs.

State,

Rep. by the Inspector of Police,
H-3 Tondiarpet Police Station (Crime),
Chennai-600 081.

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 397 & 401 of Criminal Procedure Code, to set aside the order of dismissal dated 06.04.2023 made in Crl.M.P.No.740 of 2023 on the file of the XV Metropolitan Magistrate, George Town, Chennai by allowing the present Criminal Revision Petition.

For Petitioner	:	Mr.K.Suthan
For Respondent	:	Mr.C.E.Pratap, Government Advocate (Crl. Side)

ORDER

This Criminal Revision Case has been filed to set aside the impugned order, dated 06.04.2023 made in Crl.M.P.No.740 of 2023 passed by the learned XV Metropolitan Magistrate, George Town, Chennai.



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2.Initially, the petitioner herein lodged a complaint to the respondent Police on 14.12.2022, but no action taken. Thereafter, he sent a representation to the Commissioner of Police, Vepery, Chennai on 24.12.2022, then to, no action taken. Hence, he filed a petition in Crl.M.P.No.740 of 2023 before the learned XV Metropolitan Magistrate, George Town, Chennai to forward the complaint under Section 156(3) Cr.P.C. The learned Magistrate *vide* impugned order, dated 06.04.2023 dismissed the complaint, against which, the present Criminal Revision Case.

3.The learned counsel for the petitioner submitted that one Tamilvanan used one Selvi to escape from his fraudulent act of creating forged document by impersonation and thereby, cheated the one of the property of the petitioner. On the complaint of the petitioner, a case in Crime No.1 of 2021 registered against Tamilvanan, Rajendran, Prabavathi and others by the Inspector of Police, CCB-II, Chennai, for offence under Sections 420, 465, 467, 468, 471 and 34 of IPC. The complaint against Tamilvanan and others is that on a property situated at Madhavaram in survey No.906/2, 907, 913 belongs to the petitioner's mother



Ravakannammal, there was an unregistered partition between the legal heirs which has been done by the petitioner's brother Tamilvanan. Now, the investigation is pending in Crime No.1 of 2021. In such circumstances, the said Selvi, who is a habitual offender and well known for committing extortion by giving false complaint, had lodged a complaint against the petitioner before the respondent Police and the same was registered in Crime No.287 of 2022 for offence under Sections 380 and 448 of IPC. After completion of investigation, charge sheet filed in C.C.No.1741 of 2022 before the learned XV Metropolitan Magistrate, George Town, Chennai and the petitioner is defending the case.

4.He further submitted that the petitioner gave details before the Court below with regard to the said Selvi, who connived with his brother Tamilvanan in giving false complaint and also abusing the other tenants. The other tenants also lodged complaints and several CSRs are pending against the said Selvi. Despite furnishing this fact and cognizable offence is made out, the Court below failed to forward the complaint and dismissed the same. Hence, he prays for setting aside the impugned order of the Court



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below.

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5.The learned Government Advocate (Crl. Side) appearing for the respondent Police submitted that the petitioner and the said Tamilvanan are siblings and they have got dispute with regard to inheritance of the family property. The primary allegation of the petitioner is that the petitioner's mother Ravakannammal passed away on 17.06.2012. Knowing about the same, the petitioner's brother Tamilvanan is said to have created forged document by producing a person impersonating his mother. Due to which, a case has been registered in Crime No.1 of 2021 which is being investigated by the Inspector of Police CCB-II, Chennai. As regards, the trespass and theft of Selvi's property is concerned, the said Selvi lodged a complaint against the petitioner with the respondent Police in Crime No.287 of 2022. On completion of investigation, the respondent Police filed charge sheet filed in C.C.No.1741 of 2022 before the learned XV Metropolitan Magistrate, George Town, Chennai and the said Selvi examined herself as PW1, the petitioner not cross examined the said Selvi and now, the case is posted for examination of PW2 on 22.01.2023. In view of the above, the



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Court below rightly dismissed the petitioner's complaint since the petitioner's contention is in the nature of a defence for a case registered against him. Hence, the petitioner's contention to be put forth by way of cross examination in C.C.No.1741 of 2022 and not filing a petition under Section 156(3) Cr.P.C.

6.Considering the submissions and on perusal of the materials, it is seen that the petitioner lodged a complaint against his own brother Tamilvanan and a case in Crime No.1 of 2021 is pending investigation before the Inspector of Police, CCB-II, Chennai. As regards the present complaint which is against the said Selvi is concerned, it is seen that Selvi already lodged a complaint against the petitioner and a case in Crime No.287 of 2022 registered and now, charge sheet filed in C.C.No.1741 of 2022. The said Selvi examined herself as PW1 and the petitioner is yet to cross examine her. Therefore, the petitioner's contention can be brought on record in defence during cross examination in C.C.No.1741 of 2022.



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7.Hence, this Court finds that there is no illegality or infirmity in the impugned order, dated 06.04.2023 passed by the learned XV Metropolitan Magistrate, George Town, Chennai in Crl.M.P.No.740 of 2023 and the same is hereby confirmed. Accordingly, this Criminal Revision Case stands dismissed.

8.The observations made herein is only for the purpose of disposal of the above Criminal Revision Case.

18.01.2024

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
Internet: Yes/No

vv2

To

The XV Metropolitan Magistrate,
George Town, Chennai.



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M.NIRMAL KUMAR, J.

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