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Crl.RC.No.2164 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.07.2024

CORAM:

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Crl.R.C.No.2164 of 2023

Alice Kanthimathi

...Petitioner

Versus

1. The Commissioner,
Vepery,
Chennai – 600 007.

2. The Inspector of Police,
Anna Nagar Police Station,
Chennai – 600 125.

...Respondents

Prayer: Criminal Revision Petition filed under Section 397 r/w 401 of Code of Criminal Procedure, to set aside the order made in Crl.M.P.No.17137 of 2023, dated 30.06.2022 on the file of V Metropolitan Magistrate Egmore, Chennai.

For Petitioner : Mr.M.Jaisingh
For Respondents : Mr.A.Gopinath, GA

ORDER

This petition has been filed seeking to set aside the order made in Crl.M.P.No.17137 of 2023, dated 30.06.2022 on the file of V Metropolitan



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Magistrate Egmore, Chennai.

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2. It is the case of the prosecution that the petitioner made an application u/s.156(3) of Cr.P.C. in Crl.M.P.No.17137 of 2023 before the learned V Metropolitan Magistrate Egmore, Chennai seeking to issue a direction to the first respondent to register the case based on the CSR.No.137 of 2020 dated 03.03.2020 given by the petitioner and to investigate the same, however, the said application was dismissed on the ground that the complaint made by the petitioner is civil in nature. Aggrieved over the same, the present petition has been filed seeking the aforesaid relief.

3. The learned counsel for the petitioner submits that the petitioner has lent a sum of Rs.25,80,000/- to one Vanitha for her relatives based on the promise made by the said Vanitha that she will be responsible for the said amount. When the petitioner demanded the aforesaid amount, the said Vanitha issued a cheque for a sum of Rs.16,50,000/- in favour of the petitioner in order to repay her liability and when the same was presented



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for collection, it was bounced. Since the said Vanitha failed to repay the said amount, the petitioner made a complaint before the law enforcing agency and C.S.R.No.137 of 2020 was assigned. However, no action has been taken. Though the petitioner filed an application before the trial Court to register and investigate the case in C.S.R.No.137 of 2020, however, the trial Court has dismissed the same without considering the aforesaid facts has directed the petitioner approach the competent civil Court.

4. The learned Government Advocate appearing for the respondents submit that initially the complaint was filed before the law enforcing agency and same was closed as mistake of fact in respect of the compromise entered into between the parties. Subsequently, another complaint in CSR.No.137 of 2020 was filed in which the law enforcing agency conducted investigation and submitted a negative report that the complaint is civil in nature. He further submits that though the time limit to file a complaint u/s.138 of Negotiable Instruments Act has been lapsed, the petitioner ought to have filed a civil suit before the competent civil Court for recovery of amount, however, without doing so, filing the petition u/s.156(3) of Cr.P.C. before



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the trial Court is not sustainable. Accordingly he prayed to dismiss the petition.

5. Admittedly, the petitioner has lent the aforesaid sum to one Vanitha and when the said Vanitha refused to repay the same, the petitioner has given a complaint before the law enforcing agency, since no action has been taken, the petitioner filed an application before the trial Court in Crl.M.P.No.17137 of 2023, and the same was dismissed on the ground that the complaint filed by the petitioner is civil in nature, challenging which the petitioner is in this revision.

6. It is seen that the petitioner has filed two complaints before the law enforcing agency with regard to the recovery of money as against the said Vanitha, one of which has been closed as mistake of fact with regard to the compromise between the parties and in respect of the another complaint, the law enforcing agency has conducted investigation and filed a negative report stating that the said complaint is civil in nature.



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7. On a perusal of the order passed by the trial Court coupled with the complaint filed by the petitioner, it reveals that the same is civil in nature which has to be only adjudicated before the competent Civil Court. If at all the petitioner has any grievance with regard to the recovery of money, he has to file a complaint u/s.138 of Negotiable Instruments Act, without doing so, filing a petition u/s.156(3) of Cr.P.C. or 175(3) of BNSS Act, 2023 before the trial Court is wholly unsustainable. Upon perusing the oral and documentary evidence, the trial Court has rightly dismissed the application filed by the petitioner on the ground that there is a remedy available before the Civil Court for recovery of money and the same cannot be interfered with.

8. With the above observation and direction, this criminal revision petition is dismissed.

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Index : Yes/No
Speaking order : Yes/No
NCC : Yes/No
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M.DHANDAPANI, J.

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To

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