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Crl.RC No.1704 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.1704 of 2024

S.K.Yadhav

... Petitioner

Vs.

1.Mr.P.Govindhan

2.Mr.P.Adhimulam

3.Mr.P.Rajagopal

... Respondents

PRAYER: Criminal Revision Case filed under Section 438 of BNSS, to set aside the order dated 01.07.2024 made in Crl.M.P.No.1045 of 2024 on the file of the learned Judicial Magistrate No.II, Kallakurichi.

For Petitioner : Mr.G.Ranganathan

For Respondents : Mr.N.Manoharan

ORDER

The Criminal Revision Case has been filed challenging the order dated 01.07.2024 passed by the learned Judicial Magistrate No.II, Kallakurichi, dismissing the petitioner's complaint filed under Section 200 of Cr.P.C.



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2. (i) The case of the petitioner is that the respondents and the petitioner are neighbours; that initially in the year 2013, the respondents attempted to encroach upon the petitioner's property and the petitioner's daughter gave a representation to the District Collector; that since no action was taken, petitioner's daughter filed WP No.24558 of 2013 before this Court and this Court directed the authorities concerned to dispose of the complainant's representation; that suddenly on 13.01.2024, the respondents attempted to encroach upon the eastern side of the petitioner's property and attempted to lay a road leading to their agricultural field; and that the respondents thereafter threatened to kill the petitioner.

(ii) It is the further case of the petitioner that he gave a complaint to the Superintendent of Police and since the police did not take any action, he filed the private complaint. The learned Magistrate on perusal of the record found that no *prima facie* case was made out for proceeding further as the statement of the petitioner and the witnesses were contrary to each other and that the allegations only disclose a civil dispute.



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3. The learned counsel for the petitioner would submit that though the petitioner may be entitled to file a civil suit, the conduct of the respondent would constitute the offences and the statements of witnesses ought not to have been disbelieved by the learned Magistrate and prayed for setting aside the order.

4. The learned counsel for the respondents *per contra* submitted that the disputes between the petitioner and the respondents had started in the year 2013; that since the petitioner's effort of giving a representation to the Collector and to initiate action against the respondents failed, the petitioner has filed the complaint; and that the learned Magistrate had rightly dismissed the said petition.

5. Heard the submissions made by the learned counsel on either side and perused the materials available on record.

6. On perusal of the impugned order, it is seen that there is a land dispute between the petitioner and the respondents. The complaint given



by the petitioner to the authorities concerned stating that the respondents are trying to encroach upon the petitioner's property, has not been acted upon. According to the petitioner, the complaint before the learned Magistrate alleges that on 13.01.2024, the respondents along with their henchmen had tried to lay a road in the property belonging to the petitioner. However, the learned Magistrate after considering the statements of witnesses found that the version of the petitioner is improbable; that the witnesses have made inconsistent statements; and hence no *prima facie* case was made out. The learned Magistrate had also observed that the dispute is civil in nature. This Court finds no infirmity in the finding of the learned Magistrate.

7. Hence, the order dated 01.07.2024 passed by the learned Judicial Magistrate No.II, Kallakurichi, is confirmed and the Criminal Revision Case stands dismissed. However, it is needles to say, it is open to the petitioner to move the civil Court, if he is aggrieved by any act of the respondents in claiming a right over his property.

03.12.2024

Index: Yes/No



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Speaking/Non-speaking order
Neutral citation: Yes/No.

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To

The Judicial Magistrate No.II, Kallakurichi.



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SUNDER MOHAN, J.

ars

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