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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2024

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Crl.R.C.No.538 of 2023

Gautham

... Petitioner

Vs.

1. S. Dellibabu

2. The Inspector of Police,
S14 Peerankaranai,
Kamaraj Nagar,
New Perungalathur,
Chennai-63.

... Respondents

Prayer : Criminal Revision Case has been filed under Section 397 r/w. 401 of Criminal Procedure Code, to set aside the order dated 19.07.2022 made in Crl.MP.No.5055 of 2022 on the file of the learned Judicial Magistrate-I, Tambaram and direct the second respondent to register the FIR against the first respondent.

For Petitioner : Mr.Mohammed Mudassir Ali

For Respondent : Mr.A.Gopinath R1

Government Advocate (Crl. Side)

R2 – No appearance



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ORDER

This Criminal Revision case has been filed against the order dated 19.07.2022 made in CrI.MP.No.5055 of 2022 on the file of the learned Judicial Magistrate-I, Tambaram and direct the second respondent to register the FIR against the first respondent.

2. The petitioner lodged a complaint before the second respondent on 24.03.2021. The first respondent, the owner of M/s.Laxmi Builders introduced as a registered Engineer having own construction company. On believing the words, the petitioner has deposited a sum of Rs.13,49,652/- to his bank account and after receiving the payment from the petitioner, the first respondent has intentionally failed to enter into the construction agreement. The petitioner came to know that the first respondent has cheated him. Hence, the petitioner made a complaint before the second respondent police. However, they have not taken any steps and therefore, the petitioner has filed a petition before the learned Judicial Magistrate-I, Tambaram and the same was dismissed. Challenging the said order, the present revision has been filed.



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3. The learned counsel for the petitioner submitted that without interfering with the impugned order, this Court may grant liberty to the petitioner to file a suit or file a petition under Section 200 Cr.P.C. before the appropriate civil forum.

4. The learned Government Advocate appearing for the State submitted that the issue between the petitioner and the accused person is purely civil in nature and an attempt has been made to give it a criminal colour. Hence, the learned counsel prays to dismiss the present petition.

5. Heard the learned counsel for the petitioner and the learned Government Advocate and perused the materials available on record.

6. The grounds raised by the counsel for the petitioner are all factual in nature and it requires appreciation of evidence and this Court cannot decide the same at this stage. This Court is of the view that the entire dispute is purely civil in nature and an attempt has been made to



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give it a criminal colour and the petitioner is directed to approach the Civil forum in order to redress their grievance and there is no useful purpose will be served in keeping the petitions pending and the respondent police have no role to play in a case of this nature.

7. Considering the facts and circumstances of the case and in view of the limited request made by the learned counsel for the petitioner, this Court without going into the merits of the case, permit the petitioner to file a petition under Section 200 Cr.P.C. Or section 223 of BNSS Act before the appropriate forum.

8. With the above directions, the writ petition is dismissed.

01.08.2024

Index: Yes/No
Speaking/Non-Speaking order
Rli



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To

1. The Judicial Magistrate-I, Tambaram.

2. The Inspector of Police,
S14 Peerankaranai,
Kamaraj Nagar,
New Perungalathur,
Chennai-63.

3. The Public Prosecutor,
High Court of Madras.



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M.DHANDAPANI, J.

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