



Crl.R.C.No.1957 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.1957 of 2024

Balakrishnan

... Petitioner

Vs.

1.State rep. By its
Inspector of Police,
B-1 Police Station,
Udhagamandalam,
Nilgiris.

2.Moses
3.Shobana
4.Sreedhar
5.Thusher

... Respondents

PRAYER: Criminal Revision Case filed under Section 438 r/w. 442 of BNSS to call for the records and set aside the order passed in C.M.P.No.155 of 2024 dated 18.10.2024 on the file of the Judicial Magistrate Court, Udhagamandalam.

For Petitioner : Mr.I.Abrar Md.Abdullah

For R1 : Mr.V.J.Priyadarsana
Government Advocate (Crl. Side)



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ORDER

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The revision challenges the dismissal of the petitioner's application under Section 175(3) of BNSS to register the complaint against the respondents 2 to 5 herein.

2.It is the case of the petitioner that the respondents 2 to 5 with their henchmen trespassed into the premises of the petitioner on 02.08.2024 and had taken away the goods worth Rs.20 lakhs from the petitioner's premises; that the petitioner had given a complaint to the Deputy Superintendent of Police on 12.08.2024 and that no action was taken by the Deputy Superintendent of Police. The learned Magistrate dismissed the said petition on the ground that there is a dispute between the respondents and the petitioner which is pending before the Debt Recovery Tribunal, Coimbatore and that in order to neutralize the said proceedings, the petitioner has filed this complaint and sought for registration of FIR. The learned Magistrate also found that there is absolutely no material to show that the doors of the petitioner's premises were broken open and there was a theft of materials



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worth Rs.20 lakhs.

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3.The learned counsel for the petitioner would submit that though the proceedings against the petitioner is pending before the DRT, Coimbatore, the action of the respondents amounts to trespass and theft and therefore, the learned Magistrate ought not to have dismissed the petition under Section 175(3) of BNSS. The learned Magistrate also referred to the order passed by the DRT dated 30.08.2024 directing the parties to maintain status quo till further orders.

4.The fact that the case instituted by the second respondent against the petitioner is pending in S.A.No.236 of 2024 on the file of the DRT, Coimbatore is not in dispute. The first respondent after preliminary enquiry found that the complaint does not disclose any cognizable offence and hence did not proceed further. The learned Magistrate also found on facts that there is absolutely no material to show that there was trespass and property worth Rs.20 lakhs was stolen. In the light of the above factual finding and in view of the fact that there is a case pending before the DRT,



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Coimbatore, this Court is not inclined to interfere with the order passed by the learned Magistrate. However, it is open to the petitioner to raise all his contentions in the appropriate forum in the manner known to law. It is needless to say that if the Debt Recovery Tribunal comes to the conclusion that the petitioner had been dispossessed illegally, it is open to the Tribunal to take appropriate action.

5. With the above observations, this Criminal Revision stands disposed of.

19.11.2024

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

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To

- 1.The Inspector of Police,
B-1 Police Station,
Udhagamandalam,
Nilgiris.
- 2.The Judicial Magistrate,
Udhagamandalam.
- 3.The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J.

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