



Crl.RC.No.2181 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.07.2024

CORAM:

THE HONOURABLE **MR. JUSTICE M.DHANDAPANI**

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Senthilkumar

...Petitioner

Vs.

1. Chinnadurai
2. Kalaiselvi
3. Tamilselvi
...Respondents

Prayer : Criminal Revision Petition is filed under Section 397 r/w 401 of Code of Criminal Procedure against the order passed in CMP.No.1606 of 2023 dated 16.10.2023 on the file of the learned Judicial Magistrate Court No.II at Kallakurichi.

For Petitioner : Mr.R.Jayaprakash

ORDER

This Criminal Revision petition has been filed by the petitioner against the order passed in CMP.No.1606 of 2023 dated 16.10.2023 on the file of



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the learned Judicial Magistrate Court No.II at Kallakurichi.

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2. Since no adverse order is being passed against the respondents, notice to the respondents is dispensed with.

3. It is the case of the petitioner that the first respondent / accused had borrowed a sum of Rs.12,00,000/- from the petitioner / complainant as he promised the petitioner to return the said amount with an interest at the rate of 18% p.a and also assured that he was having a property worth Rs.50,00,000/- bearing old S.No.8/1, new S.No.8/34 situated in Kaniyamoor Village for security purpose. Though the petitioner demanded the said amount, the first respondent did not turn up to repay it. In order to repay his liability, the first respondent issued a post dated cheque on 10.12.2021 and when the said cheque was presented for collection, the same has been dishonoured with an endorsement “insufficient funds”. Though, the petitioner sent a statutory notice dated 16.12.2021 to the first respondent calling upon him to make the aforesaid payment, however, the first respondent has neither repaid the outstanding due nor received the said legal



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notice. Whiles, the petitioner filed a civil suit in O.S.No.2 of 2022 and during the pendency of the above said proceedings, the fraudulent act of the first respondent came to be known by the petitioner with regard to the execution of a forged settlement deed in respect of aforesaid property in favour of the second respondent with the assistance of the third respondent. Hence, the petitioner filed a complaint u/s.200 of Cr.P.C. in C.M.P.No.1606 of 2023 on the file of the Judicial Magistrate Court No.II, Kallakurichi to investigate the complaint filed by the petitioner, however, the same was dismissed vide order dated 16.10.2023 u/s.203 of Cr.P.C. as there is no sufficient ground to accept the statement of the complainant. Challenging which, the present petition has been filed.

4. The learned counsel for the petitioner submits that though the first respondent borrowed a sum of Rs.12,00,000/- from the petitioner based on the assurance given to the petitioner as if he owns the aforesaid property, however the said property has been settled in favour of the second respondent with the assistance of the third respondent and without considering the same, the trial Court had dismissed the petition filed by the



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petitioner, which is per se unsustainable.

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5. On a perusal of the complaint lodged by the petitioner, it reveals that it is civil in nature and as the oral evidence is not admissible, the contentions made by the petitioner cannot be acceded to. It is also seen that a suit is pending between the parties and unless and until there is a restraint order passed in the aforesaid suit as against the respondents, the complaint made by the petitioner cannot be put against the respondents. When the reasons given by the petitioner cannot be accepted and when a suit is pending between the parties before the civil Court, the trial Court has rightly passed the impugned order holding that there is no sufficient ground to accept the statement of the complainant and the same does not warrant any interference. However, liberty is granted to the petitioner to work out his remedy before the competent civil Court. The Civil Court is directed to decide the issue as expeditiously as possible without being influenced by any of the observation made in the impugned order as well as the order passed by this Court.



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6. With the above directions and observation, this Criminal Revision

case is dismissed.

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Index : Yes/No

Speaking order : Yes/No

To

The Judicial Magistrate Court No.II at Kallakurichi



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M.DHANDAPANI, J.

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