



Crl.R.C.(MD)No.530 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.07.2024

CORAM

THE HON'BLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.R.C.(MD)No.530 of 2024

Malathi ... Petitioner/Complainant

Vs.

1.M.Ilango ... Respondent/Accused

2.The Inspector of Police,
District Crime Branch,
Thoothukudi District. ... Respondent/Respondent

PRAYER: Criminal Revision filed under Section 397 r/w 401 of the Criminal Procedure Code, to set aside the order made in Crl.M.P.No.4831 of 2023 on the file of the learned Judicial Magistrate No.IV, Thoothukudi, Thoothukudi District, dated 15.06.2023 and allow this revision petition.

For Petitioner : Mr.A.D.Ganeshamoorthi

For Respondents : Mr.N.Pragalathan for R1

Mr.S.Ravi
Additional Public Prosecutor for R2



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ORDER

This Criminal Revision case has been filed by the complainant, challenging the dismissal order passed in Cr.M.P.No.4831 of 2023 on the file of the learned Judicial Magistrate No.IV, Thoothukudi, Thoothukudi District dated 15.06.2023 under Section 200 of Cr.P.C.

2. The petitioner entered into the sale agreement with the private respondent. The private respondent is the owner of the property and he agreed to receive the advance amount and failed to execute the sale deed as per the agreement. Hence, he approached the respondent and the respondent criminally intimidated him and hence, he made a complaint before the second respondent police and the same was not considered. Therefore, he filed a petition under Section 200 Cr.P.C. before the learned Judicial Magistrate No.IV, Thoothukudi. The learned Judicial Magistrate No.IV, Thoothukudi, has dismissed the said petition on two grounds:

i) the entire allegation is in civil nature and hence, he has no jurisdiction to entertain the same; and

ii) the accused namely, the proposed accused are residing away from the jurisdiction of the Court and hence, there is no fault of Procedure as stated under Section 202 of Cr.P.C.



3. The learned trial Judge further observed that in view of the above, legal hurdles and also the factual matrix which did not constitute the offences alleged, dismissed the petition under Section 202 of Cr.P.C. Challenging the same, the revision petitioner filed this revision before this Court.

4. The learned Counsel for the petitioner made a detailed submissions on the basis of the following Judgments:-

“V.R.M.Gokulakrishnan Vs. Arumugam and others in Crl.R.C.No.295 of 2018; and

Shri Nitin Lalchandani Vs. The State of Mathya Pradesh and another in Writ Petition No.31367 of 2023 of the High Court of Madhya Pradesh at Jabalpur.”

5. The learned Counsel for the petitioner on the basis of the above principles stated that there is no bar to initiate the proceedings in both civil and criminal proceedings. The pendency of the civil proceedings is not a bar to initiate the criminal proceedings. The learned Counsel further submits that the learned jurisdictional magistrate dismissed the petition without examining the witnesses on his side to substantiate his allegation and committed jurisdictional error.



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6.The Court below also committed yet another error, namely, where *prima facie* case is made out for taking cognizance, the learned Judicial Magistrate should have issued summons under Section 203 of Cr.P.C., to the accused and thereafter, he should have decided the issues on merits. In view of above, he seeks interference of this Court, to set aside the impugned order.

7.The learned counsel for the respondent would submit that the learned trial Judge has correctly dismissed the petition, on the ground that the available remedy to the petitioner is to file the suit for specific performance and unfounded allegation of criminal intimidation cannot be taken cognizance either under Sections 506(ii) of IPC or 294(b) of IPC.

8.The learned Additional Public Prosecutor, on instructions, reiterated the statement of the defacto complainant and seeks dismissal of this revision case.

9.This Court considered the rival submissions made by the learned counsel appearing on either side and perused the materials available on record and the precedents relied upon by them.

10. The petitioner made the averment in the complaint that the proposed



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accused agreed to sell his property and had received entire consideration of Rs. 7,00,000/- but without executing the sale deed, he sold the property to some other person and hence the private respondent cheated the petitioner. In the considerable opinion of this court, this court finds no criminality in the act of private respondent. The remedy available to the petitioner is to file specific performance suit before the competent civil court with appropriate relief. Without doing the same, the petitioner filed this complaint by giving criminal colour to the civil dispute. Therefore, the Learned Trial Judge correctly dismissed the petition filed by the petitioner under section 200 of Cr.P.C. This court finds no infirmity in the order of the Learned Trial Judge in dismissing the private complaint filed by the petitioner.

11. Accordingly, this Criminal Revision Case is dismissed and the impugned order passed by the learned Judicial Magistrate No.IV, Thoothukudi, in Cr.M.P.No.4831 of 2023 dated 15.06.2023 is hereby confirmed.

01.07.2024

NCC: Yes/No
Index: Yes/No
Internet: Yes/No
RJR/sbn



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To

- 1)The learned Judicial Magistrate No.IV, Thoothukudi.
- 2)The Inspector of Police,
District Crime Branch,
Thoothukudi District.
- 3)The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 4)The Section Officer,
Criminal Section(Records),
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN, J.

RJR/sbn

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