



Crl.R.C.(MD).No.378 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On: 20.12.2023

Pronounced On : 19.01.2024

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.RC(MD)No.378 of 2023

Suresh

... Revision Petitioner/Petitioner

Vs.

1. The Inspector of Police,
District Crime Branch,
Pudukkottai.

2.Nandakumar

3.Rajakumari

4.Pandimeena

... Revision Respondents/
Respondents

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to call for the records from the lower Court and to set aside the order passed in Cr.M.P.No.66 of 2023 dated 05.01.2023 on the file of the learned Judicial Magistrate No.II, Pudukkottai, by allowing this Revision.

For Petitioner : Mr.G.Mathavan

For R1 : Mr.P.Kottai Chamy
Government Advocate (Crl.Side)

For R2 to R4 : Mr.R.Paranjothi



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ORDER

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The defacto complainant in Cr.M.P.No.66 of 2023 filed this revision challenging the impugned order dated 05.01.2023 wherein, the learned trial Judge has dismissed his petition filed under Section 156(3) of Cr.P.C., to take action against the proposed accused.

2. According to the petitioner, the learned trial Judge, dismissed the petition only on the ground that the petitioner has not complied with the condition under Section 154(3) of Cr.P.C., as held by the Hon'ble Division Bench judgment in **2018 5 CTC 623**.

3.The learned counsel for the petitioner submitted that the learned trial Judge is not correct in recording such a finding. The petitioner already submitted a complaint before the jurisdictional police and the same was not taken on file and hence, he made various representations to various authorities including the Superintendent of Police, Pudukottai. To prove that, he also produced some documents. In the said circumstances, the dismissal of the petitioner by the learned trial Judge on the only ground that he has not complied with the condition under Section 154(3) of Cr.P.C is not correct. The learned counsel for



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the petitioner further submitted that the learned trial Judge ought to have taken cognizance against the proposed accused as disclosed in the petition.

4. Per contra, the learned counsel for the respondents 2 to 4/proposed accused submitted that the learned trial Judge correctly dismissed the petition. The petitioner is agreed to sell the property to one Mrs.Rajakumari for a sum of Rs.1,44,00,000/-. Out of the said amount, she paid Rs.1,09,96,400/-. After making such payment, she found that there was some title defect in the extent of the property. Therefore, the proposed accused registered the document to the extent of 4000 sq ft. only and they demanded a sum of Rs.8,00,000/- for the loss sustained by them. The petitioner gave the said amount and received the original document. Thereafter, the petitioner made a complaint and the same was enquired and closed. Subsequently, the present petition was filed and the same was properly considered by the learned Judicial Magistrate and was dismissed.

5. The learned Government Advocate (Crl.Side) also reiterated the said submission and produced the closer report filed by the respondent police. On the basis of the above submissions, the respondents seeks for dismissal of the revision.



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6. This Court considered the rival submissions made on either side and perused the materials available on record.

7. According to the petitioner, he is the owner of the property in Patta No. 1268, to an extent of 8000 sq.ft at Melavattam Village, Kalinadu, Pudukottai. The second respondent is a Bank Manager and the son in law of the third respondent. The third respondent with an intention to purchase the property, approached the petitioner and entered into an agreement to purchase the said land. She gave a sum of Rs.10,00,000/- as advance and further, agreed to give the entire sale consideration of Rs.1,44,00,000/-after measuring the property and also insisted him to level the site. The petitioner has also levelled the site. Thereafter, she conducted survey and found that out of 8000 sq.ft, 812 sq.ft was missing. Therefore, she registered the document in respect of 4000 sq.ft only upon making the payment for a sum of Rs.1,09,96,400/-.

8. The petitioner now alleged that at the time of registration, she obtained original document of the property for verification and thereafter, she refused to give the same by demanding a sum of Rs.8,00,000/-. The petitioner with great



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difficulties, handed over the said amount and got the original documents. In the said circumstances, one Nanthakumar, who is the son-in-law of the said Rajakumari, further demanded a sum of Rs.8,00,000/-, failing which, he will initiate action against him and also caused criminal intimidation to him and his family. The same was recorded in the video and hence, he sought for necessary action for the alleged criminal intimidation caused by the said Nanthakumar.

9. The said criminal intimidation over the phone, does not amount to the offence under Section 506(2) of IPC and the same is fortified by the following Hon'ble Supreme Court Judgement in ***Manik Taneja v. State of Karnataka, (2015) 7 SCC 423 at page 428***

12. In the instant case, the allegation is that the appellants have abused the complainant and obstructed the second respondent from discharging his public duties and spoiled the integrity of the second respondent. It is the intention of the accused that has to be considered in deciding as to whether what he has stated comes within the meaning of “criminal intimidation”. The threat must be with intention to cause alarm to the complainant to cause that person to do or omit to do any work. Mere expression of any words without any intention to cause alarm would not be sufficient to bring in the application of this section. But material has to be placed on record to show



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that the intention is to cause alarm to the complainant. From the facts and circumstances of the case, it appears that there was no intention on the part of the appellants to cause alarm in the mind of the second respondent causing obstruction in discharge of his duty. As far as the comments posted on Facebook are concerned, it appears that it is a public forum meant for helping the public and the act of the appellants posting a comment on Facebook may not attract ingredients of criminal intimidation in Section 503 IPC.

Parminder Kaur v. State of Punjab, (2020) 8 SCC 811 : at page 821
V. Charge of criminal intimidation

26. Proving the intention of the appellant to cause alarm or compel doing/abstaining from some act, and not mere utterances of words, is a prerequisite of successful conviction under Section 506 IPC

Further, the entire transaction is civil in nature and there was no criminal element to initiate prosecution against the respondent.

Sarabjit Kaur v. State of Punjab, (2023) 5 SCC 360

13. A breach of contract does not give rise to criminal prosecution for cheating unless fraudulent or dishonest intention is shown right at the beginning of the transaction. Merely on the allegation of failure to keep up promise will not be enough to initiate criminal proceedings. From the facts available on record, it is evident that Respondent 2 had improved his case ever since



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the first complaint was filed in which there were no allegations against the appellant rather it was only against the property dealers which was in subsequent complaints that the name of the appellant was mentioned. On the first complaint, the only request was for return of the amount paid by Respondent 2. When the offence was made out on the basis of the first complaint, the second complaint was filed with improved version making allegations against the appellant as well which was not there in the earlier complaint. The entire idea seems to be to convert a civil dispute into criminal and put pressure on the appellant for return of the amount allegedly paid. The criminal courts are not meant to be used for settling scores or pressurise parties to settle civil disputes. Wherever ingredients of criminal offences are made out, criminal courts have to take cognizance. The complaint in question on the basis of which FIR was registered was filed nearly three years after the last date fixed for registration of the sale deed. Allowing the proceedings to continue would be an abuse of process of the court.

10. In view of the above reasons, the petition filed by the petitioner under Section 156 of Cr.P.C., to take action against the respondent Nos.2 to 4 was correctly dismissed by the learned trial Judge stating that there is no *prima facie* case made out in the complaint and also the petitioner has tried to give criminal colour to the civil dispute by making an allegation without any ingredients of the criminal offence.



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11. The order passed by the learned Judicial Magistrate No.II, Pudukkottai, in Cr.M.P.No.66 of 2023 on the file of the learned Judicial Magistrate No.II, Pudukkottai, dated 05.01.2023, is hereby confirmed. Accordingly, this criminal revision petition stands dismissed.

19.01.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
dss

To

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



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K.K.RAMAKRISHNAN, J.

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