



Crl.R.C.(MD)No.588 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 19.08.2024

Pronounced on : 30.08.2024

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.588 of 2024

and

Crl.M.P.(MD)No.6870 of 2024

Veeramalai

... Petitioner

Vs.

The SHO,
Palaviduthi Police Station,
Karur District.

... Respondent

Prayer : This Criminal Revision Petition filed under Section 397 r/w. 401 Cr.P.C., to call for the records relating to the order dated 10.04.2024 in Cr.M.P.No.364 of 2024 on the file of the learned Judicial Magistrate No.I, Kulithalai and set aside the same and direct the respondent to register the complaint lodged by the revision petitioner on 30.01.2024.

For Petitioner : Mr.P.Ganapathi Subramanian

For Respondent : MK.Sanjai Gandhi
Government Advocate (Crl. Side)



Crl.R.C.(MD)No.588 of 2024

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ORDER

The Criminal Revision is directed against the order passed in Cr.M.P.No.364 of 2024 dated 10.04.2024 on the file of the Court of Judicial Magistrate No.I, Kulithalai, dismissing the petition filed under Section 156(3) of the Code of Criminal Procedure.

2. The case of the petitioner is that the property in Survey No.467/8 to an extent of 4.52 cents in Mullipady Village was owned by one Murugesan/proposed first accused, that the said Murugesan had mortgaged the said property with Indian Bank, N.Poolampatti Branch and he was not in a position to repay the loan amount, that one Nallu Pillai, after discharging the mortgage loan, has purchased the said property vide sale deed dated 23.04.2021, that subsequently the said Nallu Pillai has sold the said property to the petitioner's wife Gowri vide sale deed dated 05.01.2022 and since then the petitioner's wife has been in possession and enjoyment of the said property after effecting necessary changes in the revenue records, that the petitioner's wife has deepened the well and obtained electricity service connection and was enjoying the said property with her family, that in the meanwhile the said Murugesan aggrieved by



Crl.R.C.(MD)No.588 of 2024

the hike in land prices with the help of his men proposed accused 2 to 5 had trespassed into the land of the petitioner's wife and abused them in filthy language and caused criminal intimidation, that they have also broken the pump set doors and by removing fuse carrier caused damages to the tune of Rs.5,000/-, that the petitioner has lodged a complaint on 30.01.2024, that the petitioner alone had appeared for enquiry and the proposed accused have not turned up, that thereafter the police has not taken any action, that in the meanwhile, the said Murugesan along with proposed accused 2 to 4 using their influences has lodged a complaint and on that basis, FIR came to be registered in Crime No.39 of 2024 against the petitioner and his wife for the alleged offences under Sections 294(b), 406, 420 and 506(1) IPC, that the petitioner and his wife have obtained anticipatory bail before the Principal Sessions Court, Karur, that the petitioner's wife has filed a suit in O.S.No.18 of 2024 on the file of the Subordinate Court, Kulithalai against the said Murugesan and his wife and her vendor Nallu Pillai and the same is pending, that since there was no action on the basis of the complaint lodged, they have sent a complaint to the respondent herein, the Superintendent of Police, Karur and other higher police officials but there was no action and that therefore the



Crl.R.C.(MD)No.588 of 2024

petitioner was constrained to file the present petition under Section 156(3) Cr.P.C., seeking direction for registration of FIR and for further action.

3. The learned Judicial Magistrate, by narrating the case of the petitioner briefly, by citing three decisions of the Hon'ble Supreme Court and by mechanically observing that the dispute is of purely civil in nature and that civil dispute cannot be converted as criminal case, dismissed the petition. Challenging the said dismissal order, the present revision came to be filed.

4. The petitioner in the additional typeset has produced the copy of the plaint filed in O.S.No.18 of 2024, wherein, the petitioner's wife has claimed the relief of declaration that the properties in dispute are belonging to her and for consequential permanent injunction restraining the defendants therein and their men from interfering with the plaintiff's peaceful possession and enjoyment in and over the suit properties.

5. As rightly contended by the learned counsel appearing for the petitioner, the third defendant in the suit Nallu Pillai, who is the vendor of



Crl.R.C.(MD)No.588 of 2024

the petitioner's wife, has purchased the property in dispute from the said Murugesan vide sale deed dated 23.04.2021 and the sale deed came to be executed by the said Murugesan and his wife Surya and that subsequently the petitioner's wife has purchased the property from the said Nallu Pillai vide sale deed dated 05.01.2022.

6. As rightly contended by the learned counsel appearing for the petitioner, on the basis of the complaint lodged by the proposed accused alleging that Nallu Pillai has taken a sale deed for loan transaction and in order to defraud the proposed accused, he sold the property to the petitioner's wife, the police has registered an FIR in Crime No.39 of 2024. It is pertinent to note that in the complaint, the proposed accused has challenged the sale deeds executed in favour of the said Nallu Pillai and in favour of the petitioner's wife. But whether the sale deed in favour of the said Nallu Pillai was executed for loan transaction is the aspect that can only be decided by the civil Court and not by the police authorities.

7. It is evident from the records that the petitioner's wife has filed the suit in January-2024 alleging that the defendants attempted to



Crl.R.C.(MD)No.588 of 2024

dispossess her from the property and according to the petitioner, even after filing of the suit, since the proposed accused had trespassed into the property and abused them in filthy language and caused damages to the property and also caused criminal intimidation, they were forced to lodge the complaint, but the learned Judicial Magistrate, without considering the facts of the case and the case putforth by the petitioner, by simply observing that the dispute is of civil in nature, has dismissed the petition mechanically. No doubt, it is settled law that nobody should be permitted to give civil case a criminal color and to take action under the criminal law.

8. As rightly contended by the learned counsel appearing for the petitioner, when the jurisdictional police has registered an FIR on the basis of the complaint given by the proposed accused, this Court is at loss to understand as to why the said police has not taken any action on the basis of the complaint given by the petitioner despite discloses cognizable offences.

9. Considering the above, this Court has no hesitation to hold that



Crl.R.C.(MD)No.588 of 2024

the impugned order dismissing the petition filed under Section 156(3) Cr.P.C. cannot legally be sustained and the same is liable to be set aside.

10. In the result, the Criminal Revision Petition is allowed and the impugned order dated 10.04.2024 is hereby set aside. The learned Judicial Magistrate No.I, Kulithalai is directed to forward the petition filed by the petitioner under Section 156(3) Cr.P.C. to the jurisdictional police and the concerned police is directed to register an FIR and conduct investigation and then to file a final report as expeditiously as possible in accordance with law before the jurisdictional Court. Consequently, connected Miscellaneous Petition is closed.

30.08.2024

NCC :yes/No
Index :yes/No
Internet:yes/No
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To

1. The Judicial Magistrate No.I,
Kulithalai.
- 2.The SHO,
Palaviduthi Police Station,
Karur District.



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Crl.R.C.(MD)No.588 of 2024

K.MURALI SHANKAR,J.

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Pre-Delivery Order made in
Crl.R.C.(MD)No.588 of 2024
and
Crl.M.P,(MD)No.6870 of 2024

Dated : 30.08.2024