



Crl.R.C.(MD).No.624 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On	:	20.12.2023
Pronounced On	:	09.01.2024

CORAM
THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.RC(MD). No.624 of 2022

Pandiyaraj

... Petitioner/Petitioner

Vs.

1. R.Ramani

2. D.Gandhi

3. V.Karthik

... Respondents/Respondents

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to call for the records pertaining to the order passed in Cr.M.P.No. 2415 of 2021 dated 26.05.2022 on the file of the Learned Judicial Magistrate Uthamapalayam, Theni District and set aside the same.

For Petitioner : Mr.K.Sivabalan

For Respondents : Mr.E.Raja Sekar for R1

: Mr.D.Venkatesh for R2 & R3



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ORDER

The petitioner is the defacto complainant. He filed the Cr.M.P.No.2415 of 2021 on the file of the learned Judicial Magistrate, Uthamapalayam under Section 156(3) Cr.P.C. In the said petition, it is averred that the petitioner is the owner of the tractor bearing Registration No.TN 60 AV 8637. He obtained loan from CNH industrial capital India Private Limited. On 02.09.2020, the respondents approached the petitioner and agreed to buy the tractor for the value of Rs.5,77,000/-. Therefore, an agreement was entered into between respondents and the petitioner. As per the agreement, the respondents were to pay an advance of Rs.1,77,000/- and on such payment, the respondents can take possession of the tractor. The respondents were to make the regular installment to the said financial institution. The respondents after making the said payment of Rs.1,77,000/- took possession of the vehicle and they did not make any payment towards the EMI. Therefore, the company issued notice to the petitioner and the petitioner made a payment to the company. Thereafter, the petitioner approached the respondent to return the vehicle and the amount paid by him to the financial company. At that time, the respondents without handing over the custody of the vehicle, criminally intimidated the petitioner. Therefore, he made a complaint to



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the jurisdiction Police and also the Superintendent of Police. They did not take any action and hence, he filed private complaint under section 200 Cr.P.C. before the learned Judicial Magistrate, Uthamapalayam. The learned Judicial Magistrate has taken on file the said private complaint after recording the evidence of the petitioner and other witnesses in Cr.M.P.No.2415 of 2021. The said petition for direction under Section 156(3) Cr.P.C., was dismissed by the learned Judicial magistrate by passing the impugned order. Challenging the same, the petitioner filed this revision.

2.The learned counsel appearing for the petitioner submitted that the learned trial judge committed error in taking the cognizance under Section 200 Cr.P.C. without directing the jurisdictional police to register the case under Section 156 (3) of Cr.P.C. The learned counsel for the petitioner also submitted that the complaint constitute cognizable offence. But the learned trial Judge dismissed the petition without continuing the proceedings under Sections 202 and 203 of Cr.P.C. And hence, he seeks to allow the petition. The learned counsel further submitted that when the petition disclosed the cognizance offence, the learned trial judge is not correct in dismissing the petition.



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3.The learned trial Judge failed to consider that the accused conspired together to cheat the appellant by entering into an agreement with the petitioner and failed to pay the amount. Hence, he seeks for setting aside the impugned order.

4.The learned counsel for the respondent submitted that the entire case is civil in nature. The petitioner has given criminal profile to the civil dispute. The remedy available for the petitioner is to file proper civil suit to recover the amount from the respondents. But he preferred the private complaint without any ingredient to constitute the offence under IPC. Therefore, he seeks for dismissal of the petition.

5.This Court considered the rival submission and perused the records and also the relevant law on the points. The petitioner entered into the agreement with the respondents to sell his tractor for the value of Rs.5,77,000/-. The respondents gave Rs.1,77,000/- as advance and took the possession of the tractor. They also entered into a written agreement with the important clause that



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the respondents would pay the EMI to the petitioner's bank. But the respondents failed to pay the EMI and they were using the said tractor. In the said circumstances, according to the petitioner, respondents intentionally committed default in making the EMI towards the financial institution as per agreement. Hence, the financial institution issued notice to the petitioner and the petitioner made the payment. The respondents without making EMI used the vehicle. Therefore, the petitioner seek the return of the vehicle. The same was not adhered to by the respondents. Therefore, he made the complaint and the same was not considered by the law enforcing authority. Hence, he preferred the private complaint before the learned Judicial Magistrate.

6. The learned Judicial Magistrate considered the above transactions as civil nature and also held that the remedy available to the petitioner is to file the appropriate suit for recovery of the amount and the tractor. The said finding of the learned trial Judge is in accordance with law. The petitioner case is a breach of contract. In the said circumstances, his remedy is only to file the appropriate civil proceedings on the basis of the agreement entered into between the petitioner and the respondents. Hence, the learned trial judge rightly dismissed



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the petition. The case of the petitioner to initiate criminal action against the respondents is without merits. Therefore, this court finds no merit in the revision. Hence, this Criminal Revision Case is dismissed.

09.01.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
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To

1. The Judicial Magistrate,
Uthamapalayam, Theni District.
2. The Section Officer,
Criminal Section(Records),
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN, J.

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Pre-delivery Order made in
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