
(2012) 11 MAD CK 0034
In the Madras High Court
Case No : Criminal R.C. (MD) No. 570 of 2012

V. Ganesan

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 28-11-2012

Acts Referred:

Citation : (2013) 2 MLJ(Cri) 697

Hon'ble Judges : M. Venugopal, J

Bench : Single Bench

Advocate : S. Deenadhayalan, for the Appellant; P. Kandasamy, Government Advocate (Crl. Side), for the Respondent

Judgement

M. Venugopal, J.—The Revision Petitioner/Complainant has preferred the present Criminal Revision Petition as against the order dated

31.8.2012 in Cr. M.P. No. 4062 of 2012 passed by the Learned Judicial Magistrate No. III, Tiruchirappalli, in dismissing the complaint filed by

the Revision Petitioner/Complainant, under Sections 190(1)(2) and 200 read with 156(3) of Cr.P.C. The Learned Judicial Magistrate No. III,

Tiruchirappalli, while dismissing Cr. M.P. No. 4062 of 2012 on 31.8.2012, has inter alia observed that "... Absolutely there is no evidence for

agreement to purchase the house from Gomathi. There is no piece of paper for the proof of Rs. 50,000/- alleged to be given to Gomathi. There is

no evidence for permission to put up shed in the house of Gomathi. Simple to settle the dispute, criminal complaint is filed that too register F.I.R.

etc." and resultantly, dismissed the complaint.

2. Assailing the impugned order in Cr. M.P. No. 4062 of 2012 dated 31.8.2012, passed by the Learned Judicial Magistrate No. III,

Tiruchirappalli, the Learned counsel for the Petitioner submits that the Learned Judicial Magistrate has committed an error in dismissing the

Criminal Miscellaneous Petition u/s 156(3) of Cr.P.C., by assigning the reason that the allegation in the complaint is purely civil in nature. It is the

further contention of the Learned counsel for the petitioner/Complainant that the Learned Judicial Magistrate has not appreciated an important fact

that there is prima facie averments/allegations made in the complaint projected by the Revision Petitioner/Complainant.

3. Expatiating his submissions, the Learned counsel for the petitioner/complainant contends that the Learned Judicial Magistrate should not have

gone into the merits of the matter/case in the complaint filed u/s 156(3) of Cr.P.C.

4. Lastly, the Learned counsel for the petitioner/complainant projects an argument that the averments/allegations set out in Cr. M.P. No. 4062 of

2012 filed by the petitioner/complainant makes out offence punishable under Sections 427, 448, 294(b), 324 and 506(ii) of I.P.C.

5. The Learned Government Advocate (Criminal Side) appearing for the Respondent/State submits that the Trial Court has gone into the matter in

threadbare and come to a consequent conclusion that the civil dispute is converted into criminal complaint due to lack of evidence and ultimately,

dismissed the complaint which need not be interfered by this Court sitting in Revision.

6. It is to be noted that Section 156(3) of Cr.P.C. empowers the competent Magistrate u/s 190 of Cr.P.C., to take cognizance. Further, on

receiving the complaint, the Learned Judicial Magistrate has to apply his mind to the allegations/averments made in the complaint dispassionately

upon which he may proceed immediately to take cognizance or in the alternative, he may order it to go to the Police Station for being registered

and investigated.

7. The order passed by the Learned Judicial Magistrate must indicate application of mind as per decision in Ram Babu Gupta and Another Vs.

State of U.P. and Others, Also, mere allegations about commission of offence without any material in support thereof would not justify or for

investigation u/s 156(3) of Cr.P.C., as per decision in S.P. Shenbagamoorthy Vs. Mr. Mu. Ka. Stalin and The Director, Directorate of Vigilance

and Anti-Corruption, Chennai,

8. It transpires from the C.D. file produced by the respondent Police that the petitioner/Complainant has given petition on 24.7.2012 before the

respondent Police inter alia stating that his thatched shed has been destroyed and two times, he has lodged a complaint before the Police Station

viz., 10.4.2012 and 14.7.2012 and also that again on 24.7.2012 at about 9.00 a.m. in the morning, when he has not been present in his house, the

thatched shed has been removed by Munusamy, Selvam @ Subramani and they have damaged the same. Based on the complaint dated

24.7.2012 as seen from the C.D. File, it appears that the respondent Police, on 24.7.2012 at about 18.30 hours has issued a receipt bearing No.

180 of 2012 to the Revision Petitioner/Complainant. It appears that the said complaint has been placed before the Sub Inspector of Police for his

consideration. However, the petitioner/complainant in the typed set of papers has enclosed a complaint dated 24.7.2012 and it appears that the

same has been addressed to the Inspector of Police/Respondent accounting for certain details and finally has stated that his thatched shed valued at

about Rs. 25,000/- has been damaged by Munusamy, his Wife Valleeeswari and his brother-in-law Selvam @ Subramani on 24.7.2012 at 8.00

p.m.

9. In the complaint lodged by the petitioner/complainant before the Respondent Police on 24.7.2012 as seen from C.D. file, it appears that the

incident has been mentioned as one that has taken place on 24.7.2012 at about 9.00 a.m. in the morning. But, in the typed set of papers, the

petitioner/complainant has enclosed a complaint dated 24.7.2012 mentioning the date of occurrence on 24.7.2012 approximately at about 8.00

p.m. in the evening in regard to the damage caused to the thatched shed valued at about Rs. 25,000/-.

10. According to the Learned Government Advocate (Criminal Side), the complaint dated 24.7.2012, mentioned in the typed set of papers at

Pages 1 and 2 has not been received by the Respondent/Police. Be that as it may, on going through the order passed by the Trial Court in Cr.

M.P. No. 4062 of 2012 dated 31.8.2012, this Court is of the view that the petitioner/complainant has not produced any documentary evidence

like agreement to purchase the house from Gomathi etc., and also any other documentary proof to exhibit as to the payment of Rs. 50,000/-

purported to have been given to one Gomathi etc., and consequently, the Trial Court has opined that a civil dispute is converted into a criminal

complaint by short-cut method of settling the dispute and has negated the request for registration of F.I.R., based on the complaint.

11. The impugned order of dismissal passed by the Trial Court in Cr. M.P. No. 4062 of 2012 dated 31.8.2012, does not suffer from any

impropriety or illegality because of the simple fact that the Trial Court has taken into account the entire gamut of the matter in a real and proper

perspective and has come to a right conclusion in dismissing the Criminal Miscellaneous Petition and this Court is in complete agreement with the

view taken by it in dismissing the Criminal Miscellaneous Petition. Viewed in that perspective, the Criminal Revision Petition sans merits and the

same dismissed.