



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.12.2013

CORAM:

THE HONOURABLE MRS.JUSTICE ARUNA JAGADEESAN

CRL.RC (MD) 172/2013

MP (MD) No.2/2013

Jeyaram R

Petitioner

Vs

State of Tamil Nadu by its Inspector of Police
Karivalamvanthanallur Police Station
Sankarankoil, Tirunelveli

Respondent

Prayer:- This Criminal Revision Case is filed against the order dated 25.10.2010 made in STC.No.3092/2010 by the learned Judicial Magistrate, Sankarankoil.

For Petitioner : Mr.N.Dilip Kumar
For Respondent : Mrs.S.Prabha, GA(Crl.Side)

Order

This Criminal Revision Case is filed against the order dated 25.10.2010 made in STC.No.3092/2010 by the learned Judicial Magistrate, Sankarankoil, thereby convicting the Petitioner on being pleaded guilty under Section 75(1)(c) of the Tamil Nadu City Police Act and imposing a fine of Rs.500/-, in default to undergo Simple Imprisonment for one month.

2. The accusation against the Petitioner and another is to the effect that on 25.10.2010 at about 8.30 p.m., the accused abused in a filthy language and quarreled with each other in front of Ganesan Provisional Store, North Ratha Veedhi, Main Bazaar, Karivalamvanthanallur and they were charged under Section 75(1)(c) of the Tamil Nadu City Police Act and brought to the Judicial Magistrate, Sankarankoil. On the accused pleading guilty, they were fined Rs.500/- each, in default to undergo Simple Imprisonment for one month.

3. The learned counsel for the Revision Petitioner contended that the provision, which form part of Section 252 of Cr.PC, contemplates the plea being recorded as nearly as possible in the words used by the accused and the importance of the recording of the plea of the accused in his own words is contemplated in law to facilitate the court to arrive at a conclusion, if the words used by the accused while pleading have a bearing to the sum and substance of the accusation against him and what exactly the accused had admitted. The learned counsel placed reliance on the decision of the Honourable Supreme Court reported in **AIR-1966-SC-22 (V-53-C-56) (Mahant Kaushalya Vs. State of Madras)** wherein the Honourable Supreme Court held that when the



accused pleaded guilty, it should be recorded in his own words. It further held that the requirement of the Section is not a mere empty formality, but is a matter of substance intended to secure proper administration of justice.

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4. This court heard the submissions of the learned counsel on either side and also perused the records.

5. The main attack on the impugned order passed by the learned Magistrate is non compliance of the provisions of Section 252 of Cr.PC, which apply to summons case. Section 252 of Cr.PC requires that when the accused appears or is brought before the Magistrate, the particulars of the offence, of which he is accused, shall be stated to him and he shall be asked if he has any cause to show why he should not be convicted; it shall not be necessary to frame a formal charge. In this case, I do not find anything on record to suggest that the requirements of Section 252 of Cr.PC were complied with, except the bare order of the learned Magistrate, stating that the accused were furnished with the copies and questioned. This, in my opinion, is quite insufficient. The record, on the face of it, does not show that the Magistrate explained to the accused the essential particulars of the offence and recorded the answers which the accused gave. What is more serious is the omission of the learned Magistrate to observe the formalities required by Section 252 of Cr.PC.

6. It is not known as to what was actually stated by the Petitioner; nor is it known what question was put to the Petitioner, in answer to which the Petitioner was stated to have pleaded guilty. There is no record of the actual words used by the Petitioner. The order does not state anything beyond "the accused pleaded guilty". According to the procedure prescribed by Section 252 of Cr.PC, when an accused appears or is brought before a Magistrate, the particulars of the offence, of which he is accused, should be stated to him and he should be asked if he has any cause to show why he should not be convicted and that if he admits that he has committed the offence, of which he is accused, his admission should be recorded "as nearly as possible" in the words used by him. In the present case, the learned Magistrate has completely failed to record the admission of the Petitioner as nearly as possible in the words used by him.

7. The provisions of Sections 251, 252 and 253 of Cr.PC are very salutary and are necessary for protection of the accused and for a proper administration of justice, which would inspire confidence in the administration. The Magistrate has to remember that an order convicting an accused on his own admission is not a final order, as it is open to revision by a superior court, which has to be satisfied that what the Magistrate thought to be an admission of an offence by accused, was really such an admission. Where the admission of the accused is not recorded as required by Section 242 of Cr.PC, the superior court is deprived of the chances of forming its own independent conclusions which might often result in serious miscarriage of justice. Therefore, when the provisions of these sections are not complied with, the conviction cannot be upheld.



8. The contention urged by the learned counsel for the Petitioner is that the Petitioner has not pleaded guilty, but only stated the occurrence of an incident involving himself and the other accused. In the light of the submissions of the learned counsel for the Petitioner and in the absence of record of the words of the Petitioner, it is not possible to hold that the Petitioner pleaded guilty to the offence. The other requirements as stated above have also not been observed by the learned Magistrate. The case smacks of undue haste. Therefore, the impugned order passed by the learned Magistrate suffers from serious lacunae and has to be set aside. It also appears that the learned Magistrate has used the rubber stamp, which has been deprecated by this court time and again.

9. In the result, this criminal revision petition is allowed and the impugned order is set aside. The Petitioner is acquitted of the offence under Section 75(1)(c) of the Tamil Nadu City Police Act. Consequently, the connected MP is closed.

Sd/-

Assistant Registrar(Crl.Side)

/True Copy/

Sub Assistant Registrar

To:

- 1.The Judicial Magistrate, Sankarankoil.
- 2.The Inspector of Police, Karivalamvanthanallur Police Station, Sankarankoil, Tirunelveli
- 3.The Addl.Public Prosecutor, Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.N.Dilip Kumar Advocate, Sr.No. 63743

srcm

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