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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Crl.Revision Case No.87 of 2014

M.Periyasamy

.. Petitioner

vs

Jawagar
The Assistant Inspector
Perambalur Police Station

.. Respondent

Revision Petition filed under Sections 397 read with Sec. 401 of Cr.P.C. against the order dated 16.08.2013 passed by the learned Judicial Magistrate, Perambalur in Crl.M.P.No.5682 of 2013 in discharging the respondent/accused from the complaint lodged.

For Petitioner : No appearance

For Respondent : Mr.T.Arul
Government Advocate
(Criminal side)

ORDER

For the past two hearings, there was no representation for the petitioner. Hence, the matter was listed today under the caption ''for dismissal''. Even today, there is no representation for the petitioner. Hence, as per the judgment of the Hon''ble Apex Court reported in (2013) 3 SCC 721 [K.S.Panduranga vs. State of Karnataka], if the petitioner do not appear, there is no necessity for the Court, which is hearing the matter, to issue warrant for special notice or appoint any Amicus Curiae to argue the matter on behalf of the petitioner. The Court is empowered to deal with the matter on merits and dispose of the same. Accordingly, this matter is taken up for disposal on merits.

2. According to the petitioner, the respondent/accused had entered the house of the petitioner and beat him, due to which, he sustained injuries. Hence, he lodged a complaint as against the respondent/accused for the offences under Sections 294(B), 323 IPC of Cr.P.C. However, the Court below erred in dismissing the petition filed by the petitioner and had discharged the respondent/accused as against the complaint lodged by him. He



would further state that the Court below erred in accepting the eye witness of PW2, which supports the case of the petitioner/complainant. Accordingly, he would pray for setting aside the order passed by the Court below.

3. Heard, the learned Government Advocate (Criminal side) appearing for the respondent, who would submit that as pointed out by the Court below, no case has been made out by the petitioner for registering the complaint as against the respondent. In fact, the complaint is flimsy and false. He would also submit that the Doctor who has examined the petitioner has not given any statement regarding the injuries sustained by him. Even when the petitioner appeared before the Magistrate, he has not reported anything about the injuries sustained by him. Hence, the Court below dismissed the very complaint itself as false. Accordingly, he would pray for the dismissal of the revision.

4. I have perused the materials available on record.

5. On a perusal of the order passed by this Court below, it is seen that it has clearly analysed the entire aspect of the case and also the evidence adduced by PWs.1 to 3 and dismissed the complaint filed by the petitioner. It is further seen that, there were contradictions in the evidence given by the petitioner as PW1 and his wife, as PW2. It is further held that though the complainant had contended that he was brutally hit by the accused by his shoe, there was no shoe mark on his body. Even when he was produced before the Magistrate at least on two hearings, neither the petitioner nor his brother, has informed anything about the injuries sustained by them. In view of the same, brutality cannot be accepted. It is also pointed out by the Court below that the Doctor, who has examined the petitioner has not given any Certificate regarding the injuries sustained by the petitioner. In view of the above findings, it is clear that the petitioner only to harass the respondent has preferred this complaint. In such circumstances, the Court below finding that there is no merit in the complaint, dismissed the petition filed by the petitioner and discharged the respondent/accused, warranting no interference in this revision.

6. In the result, this Criminal Revision Case is dismissed.

-sd/-

ASSISTANT REGISTRAR

/ TRUE COPY /

Sub-Assistant Registrar



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To *N. Jagannathan*

1. The Judicial Magistrate, Perambalur

2. The Public Prosecutor, Madras

3 The Assistant Inspector [Jawagar]
perambalur police station

krp[co]

RD 30/06/2015