

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2015

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

Cr1.R.C.No.286 of 2015

Sarojini

.. Petitioner

Vs.

1.Nagaraj,
Inspector of Police,
Erstwhile Tiruppur North Police Station,
Tiruppur
At Present: Asthampatti Police Station,
Salem.

2.Manikannan,
Sub Inspector of Police,
Tiruppur North Police Station,
Tiruppur.

3.Thirupathi,
Police Constable,
Tiruppur North Police Station,
Tiruppur.

4.Nirmala,
Police Constable,
Tiruppur North Police Station,
Tiruppur.

5.Ilango,
Sub-Registrar,
Tiruppur Sub-Registrar,
Tiruppur.

6.Ragothaman, (Trainee)
Sub-Registrar,
Tiruppur Sub-REGistrar,
Tiruppur.

7.Deivathal

8.Visalatchi

9.Radhakrishnan

.. Respondents

Criminal Revision filed under Sections 397 and 401 Cr.P.C. against the rejection order of learned Judicial Magistrate I, Tiruppur passed in C.M.P.C.F.R.No.9179 of 2014 dated 11.02.2015 in respect of the petitioner's complaint under Section 200 Cr.P.C and pleaded to direct learned Judicial Magistrate I, Tiruppur to restore and proceed further.

For Petitioner : Mr.R.Prabakar

For Respondents: Mr.C.Iyyapparaj,
Govt. Advocate (Crl. Side) [R1 to R6]
Mr.N.Chinnaraj [R8]
Mr.Abudukumar Rajarathinam
- Amicus curiae

O R D E R

This revision challenges the order of learned Judicial Magistrate I, Tiruppur passed in C.M.P.C.F.R.No.9179 of 2014 on 11.02.2015.

2.Though notice earlier stands issued to respondents and most of them have entered appearance, this Court finds that notice to respondents is not necessary in this case.

3. The complaint of the petitioner has been dismissed under orders dated 11.02.2015 with the following observation:

"Petitioner present. Heard. On perusing the case records and the complaint, no prima facie criminal offence is made out. The transaction is purely civil in nature. Hence, the complaint is rejected."

4. The learned Magistrate, without taking the complaint on file under Section 200 Cr.P.C and examining the complainant, has passed the order stating that the matter is civil in nature. It is only after taking the complaint on file and following the procedure prescribed under the Criminal Procedure Code, that the Magistrate can enter upon a finding of dismissal of the complaint under Section 203 Cr.P.C. The order of Court below is a flagrant violation of the law prescribed.

5. Mr.Abudukumar Rajarathinam, learned counsel assists the Court by informing that Section 401(2) Cr.P.C. requires that no order under such Section (i.e. exercise of revisional powers) be made to the prejudice of the accused or other person unless he has had an opportunity of being heard either personally or by

pleader in his own defence.

6. Requiring the Court below to act in accordance with law prescribed towards satisfying itself as to whether a case calling for cognizance by it is made out or not cannot be seen as prejudicial to the persons accused as the decision of whether cognizance is to be taken on the complaint lies with the Magistrate.

For the said reason, this revision is allowed and judgment of learned Judicial Magistrate I, Tiruppur passed in C.M.P.C.F.R.No.9179 of 2014 on 11.02.2015 shall stand set aside.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vsm

To

- 1.The V Additional District and Sessions Judge,
Coimbatore.
2. do Thro'The Chief Judicial Magistrate, Coimbatore.
- 3.The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.R.Prabhakar, Advocate, sr.63626
+1 cc to Mr.N.Chinnaraj, Advocate, sr.63847

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