

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09-07-2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No. 364 of 2015

R.Vijaya Chamundeswari

.. Petitioner/Defacto
Complainant

Versus

Inspector of Police
Mailam Police Station
Tindivanam
Villupuram.

.. Respondent/Complainant

Criminal Revision Case filed under Sections 397 and 401 of Cr.P.C. to set aside against the order dated 01.04.2015 passed by the learned Judicial Magistrate No.II, Tindivanam, made in C.M.P. No. 189 of 2015 in Crime No.232 of 2011 on the file of the Mailam Police Station, Tindivanam, Villupuram.

For Petitioner : Mr.P.Thiagarajan

For Respondent : Mr.V.Arul
Government Advocate
(Criminal Side)

ORDER

The petitioner has filed the above Criminal Revision Case challenging the order dated 01.04.2015 passed by the Judicial Magistrate No.II, Tindivanam, in C.M.P. No. 189 of 2015 in Crime No.232 of 2011 on the file of the Mailam Police Station, Tindivanam, Villupuram.

2. According to the petitioner/defacto complainant, on 30.04.2011, accused Perumal, Anandavalli, Perumal, Ranganathan and 10 others trespassed into the land and cut casuarina wood worth about Rs.1,50,000/- from the property and had taken it away using a tractor and threatened the petitioner by using filthy language. On the complaint given by the petitioner, a case was registered for the offences under Sections 147, 447 and 379 IPC. Aggrieved by the inaction of the police, the petitioner has filed CrI.O.P.No.29375 of 2013, seeking to direct the respondent police to file final report. The respondent police has filed a closure report before this Court. Seeking for further investigation the petitioner has filed a petition in C.M.P.No.189 of 2015 under Section 173 (8) Cr.P.C. before the Lower Court. The said petition was dismissed by order dated 01.04.2015, however, the petitioner is directed to file a private complaint by alleging the fact as pleaded by her along with relevant documents relied on by the petitioner. Aggrieved against the same, this Criminal Revision Case is filed.

3. Mr.P.Thiagarajan, learned counsel appearing for the petitioner, after some elaborate arguments, would submit that he will be satisfied if liberty is given to him to file a private complaint as directed by the Lower Court in the impugned order dated 01.04.2015. He would rely on an unreported judgment of this Court in CrI.R.C.No.399 of 2015 (R.Vijaya Chamundeswari vs. Inspector of Police), dated 29.04.2015, wherein also, the petition filed under Section 173(8) Cr.P.C., seeking further investigation was dismissed, but, however, a direction was issued to the Magistrate to treat the said petition as a protest petition to the negative final report filed by the Investigation Officer and follow the private complaint procedure and dispose of it in accordance with law.

4. Heard both sides. By consent, the main Criminal Revision Case itself is taken up for final disposal.

5. Having regard to the fact that the Lower Court, while dismissing the petition under Section 173(8) Cr.P.C., seeking further investigation, has directed the petitioner to file a private complaint, suffice it to state that this Criminal Revision Case is dismissed, however, the petitioner is given the same liberty as granted by the Lower Court to file a private complaint by alleging the fact as pleaded by her along with relevant documents relied upon by the petitioner.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

paa

To

1. The Judicial Magistrate No.II,
Tindivanam.

2. The Inspector of Police Mailam Police Station,
Tindivanam,

3. The Public Prosecutor, High Court, Madras.

+ 1 cc to Mr.P. Thiagarajan, Advocate Sr.34817

CrI.R.C. No. 364 of 2015

SCD(CO)
Eu 31.07.15