

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.06.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No.589 of 2015

The Soundararaja Mills Employees
Co-operative Credit Society Ltd.,
P.No.353, rep.by its Authorized Signatory
P.Ravindran ... Petitioner

Versus

1. The Inspector
Nedungadu Police Station
Nedungadu 609 603
Karaikal District
Puducherry State.
2. P.Murugaiyan ... Respondents

Criminal Revision Petition filed under Sections 397 and 401 of Cr.P.C. against the order dated 11.04.2014 passed by the learned Judicial Magistrate No.II, Karaikal in Crl.M.P.No.1867 of 2013.

For Petitioner : Mr.Govardhan for
Mr.S.Saravana Kumar

For Respondents : Mr.M.R.Thangavelu
Government Advocate
(Pondicherry) for R1

ORDER

The above Criminal Revision Case has been filed as against the order dated 11.04.2014 passed by the learned Judicial Magistrate No.II, Karaikal in Crl.M.P.No.1867 of 2013 in dismissing the petition filed by the petitioner under Section 159 r/w 173 of the Criminal Procedure Code as not maintainable.

2. Learned counsel appearing for the petitioner would submit that the main grievance of the petitioner-Society is that the closure notice of the complaint filed by them in Crime No.52 of 2005 as against the second respondent was not duly served. Unless their protest petition is taken into account, filing of any final report without such notice is invalid. Accordingly, he would pray for setting aside the order passed by the Court below.

3. Whereas the Learned Government Advocate (Puducherry) would contend that it is the case of the prosecution that notice was duly served on the petitioner/defacto complainant. In fact, even otherwise, the final report itself has been filed in Crime No.52 of 2005 and the same has been submitted before the Court below as early as in the year 2009. Accordingly, he would pray for the dismissal of the Criminal Revision Case.

4. Heard both sides and perused the records.

5. From a perusal of the order passed by the Court below, it is seen that the Court below while dismissing the petition filed by the petitioner to order for a fresh and further investigation over the complaint instituted by the petitioner-society, has held thus:

"12. In this regard, this Court finds that when a final report is submitted to the Court of Magistrate at the first instance it is the discretion of the Court either to accept the final report or to order for further investigation if necessary based on the records submitted. This Court has acted likewise and when a report on 03.06.2009 as mistake of fact in the above Cr.No.has been submitted, it was accepted on 04.06.2009. That being the case, this Court for the second time does not have any power to unveil the settled matter. However, there is no bar for the petitioner to institute a private complaint when he feels that there is sufficient evidence to substantiate his case. Instead of taking such a re-course he has filed this petition. This Court finds that the power of this Court is limited as per the provisions of Cr.P.C and by this petition the petitioner has tried to re-open the case for fresh investigation."

In view of the above finding, I do not find any reason to interfere with the order passed by the Court below. The only re-course open to the petitioner under law is to file a protest petition in the form of Private complaint under Section 156 of the Criminal Procedure Code. In fact, the order passed by the Court below only refers to the same. Now the petitioner apprehends because of the delay, there might be some difficulty in preferring the said complaint.

6. In view of the apprehension so expressed by the petitioner, the Court below is directed to entertain the Protest Petition to be filed by the petitioner on merits and in accordance with law, without referring to the period of limitation, as the petitioner has taken steps to prefer this Criminal Revision Case before this Court.

7. With the above direction, this Criminal Revision case is disposed of.

vj2

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

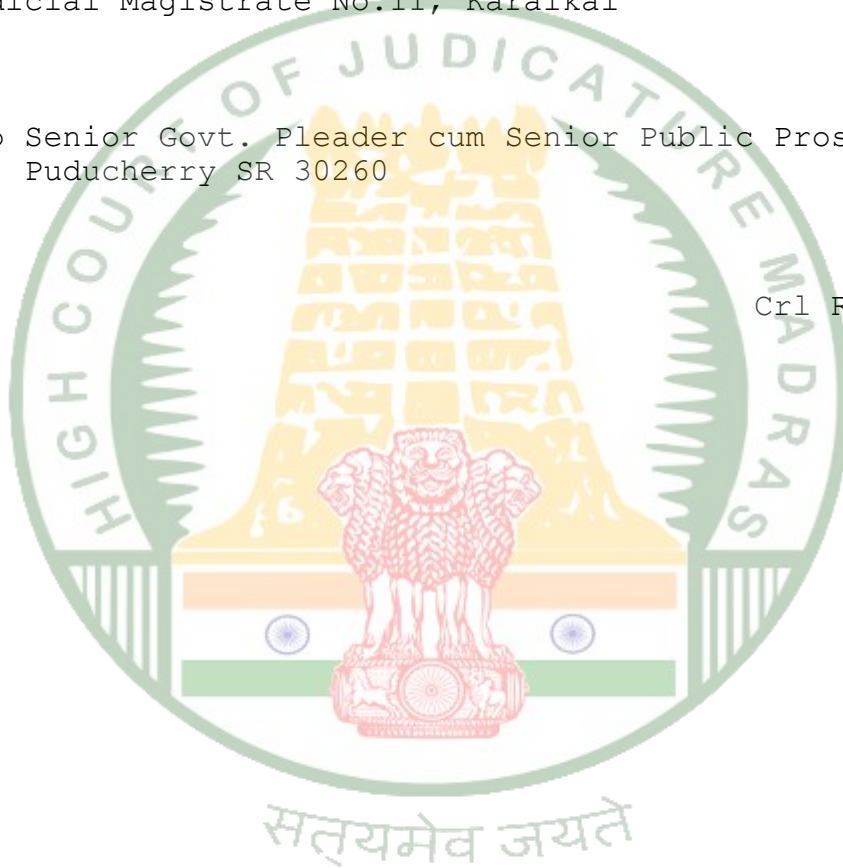
To

1. The Judicial Magistrate No.II, Karaikal

+ 1 cc to Senior Govt. Pleader cum Senior Public Prosecutor,
Puducherry SR 30260

kck(co)
prk30/6

Crl RC No.589 of 2015



WEB COPY