

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.9.2015

Coram

THE HONOURABLE MR.JUSTICE B. RAJENDRAN

Criminal Revision Case No. 730 of 2009

A.T.Natarajan

.. Petitioner

Versus

1. The Inspector of Police
K-3 Aminjikarai Police Station
Chennai - 600 029

2. T.K.Suriyanathan

3. S.Senthilkumar .. Respondents
(Respondents 2 and 3 are impleaded as per
order of Court dated 27.8.2009 in MP.No.1 of 2009)

Criminal Revision Petition filed under Section 397 and 401 of Cr.P.C. to set aside the order dated 08.6.2009 passed in CrI.MP.No.763 of 2009 on the file of Vth Metropolitan Magistrate, Egmore, Chennai 600 008.

For Petitioner : Ms. S.Hemalatha

For R1 : Mr. V.Arul
Government Advocate
(Criminal side)

For R2 and R3 : Mr.Anantha Narayanan

ORDER

The revision is filed challenging the dismissal of the protest petition filed by the petitioner in respect of the alleged complaint against his son's in-laws.

2. The case of the petitioner is that he preferred complaint before the respondent police on 18.10.2007 and the same was registered as case in Crime No.640 of 2007 for the offence under Section 147, 448, 506(ii) IPC and 380 IPC and the respondent police, after completion of investigation, filed final report before V Metropolitan Magistrate, Egmore, Chennai with endorsement 'mistake of fact' on 24.10.2008. After receiving the notice, the petitioner has filed the protest petition and the same was dismissed. Aggrieved over the said dismissal order, the petitioner is before this Court.

3. The main ground of attack made by the petitioner was that the lower Court has dismissed the petition only on the ground that the witnesses have not named the person, who has taken the goods. According to the petitioner, non mentioning of the name of the accused by the witnesses alone cannot be a criteria to dismiss the protest petition. According to the petitioner, he has produced the statement of 3 witnesses, who have clearly stated with regard to the offence committed by the accused. Therefore, according to the petitioner, the protest petition filed by the petitioner ought to have been taken into consideration by the trial Court.

4. The learned Government Advocate (Criminal side) submitted that the Court below, after considering the entire materials placed on it, has rightly dismissed the protest petition on the ground that prima facie case has not been made out by the petitioner.

5. The learned counsel for the respondents 2 and 3 brought to the notice of this Court that the daughter of the second respondent married the son of the petitioner and due to the harassment of the petitioner and his son, the second respondent's daughter committed suicide and based on the complaint given by the second respondent, the petitioner herein and his son were convicted for the offence under Section 304 (b) and sentenced to undergo 7 years imprisonment. Thereafter, the petitioner and his family voluntarily surrendered entire properties given by the second respondent at the time of marriage. It is the contention of the respondents 2 and 3 that since the Court below convicted the petitioner and his son, the present false complaint has been given against them and hence, the Court below has rightly dismissed the protest petition filed by the petitioner.

6. Heard the learned counsel for the petitioner, the learned Government Advocate (Criminal side) appearing for the first respondent and the learned counsel for the respondents 2 and 3 and also perused the materials available on record.

7. On a perusal of the entire materials, it is clear that the witnesses, namely, Elija John Mathew and Prakash Rao, in the protest petition are adjoining neighbours and secretary of the petitioner's flat owners' association and they have not mentioned the name of the accused person. Further, in the statement, the above witnesses have stated that they have duly signed in the list of articles, which have been taken by the alleged accused. As rightly pointed out by the learned counsel for the respondents, if really the accused has taken away all the properties in the manner as alleged by the petitioner, the petitioner ought to have phoned '100' for immediate help but the same has not been done in this case. In fact, as per the evidence of Mr. Prakash Rao, the Secretary of the petitioner's flat owners' association, the alleged accused prepared a list, which was also signed by said Prakash Rao, the Secretary of the flat, and handed over the same to him.

8. The Court below carefully considered the above facts and material evidences available on record to conclude that there is no evidence available to launch prosecution against the respondents 2 and 3 and that the report filed by the first respondent Police under Section 173 (2) of Cr.P.C. to close the complaint given by the

petitioner as mistake of fact is acceptable. Such a conclusion arrived at by the court below is based on material evidence available on record and I do not find any reason to interfere with such a conclusion arrived at by the Court below. The Criminal Revision Case is therefore dismissed.

Ga

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub-Assistant Registrar

To

1. The V Metropolitan Magistrate,
Egmore, Chennai
2. The Chief Metropolitan Magistrate,
Egmore, Chennai
3. The Inspector of Police,
K-3, Aminijikarai Police Station,
Chennai - 600 029
4. The Public Prosecutor,
High Court, Madras

+1 C.C. To MR.S.Ananthanarayanan, Advocate in SR.NO.46992

Cr1.RC No.730 of 2009

RSI (CO)

sd : 14/10/2015

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