



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.09.2015

CORAM:

THE HONOURABLE MRS.JUSTICE S.VIMALA

WEB COPY

Criminal Revision Case (MD)No.348 of 2015
and
M.P. (MD)No.1 of 2015

Sekkappan

.. Petitioner / Complainant

Vs.

Murugappan

.. Respondent / 3rd Respondent

Prayer: Revision is filed under Section 397 and 401 Cr.P.C. against the order dated 14.05.2015 passed by the learned Judicial Magistrate, Alangudi in Cr.M.P.No.4960 of 2014 in C.C.No.91 of 2015 by excluding the respondent herein as an accused and taken cognizance of the complaint filed under Section 200 Cr.P.C.

For Petitioner : Mr.D.Ramesh Kumar
For Respondent : No Appearance

ORDER

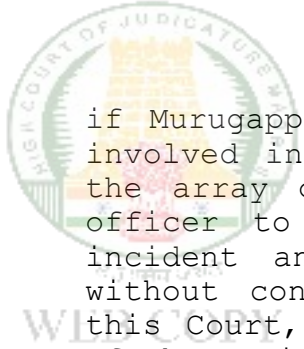
The petitioner in this revision petition, as defacto complainant, has filed a private complaint before the learned Judicial Magistrate against six persons, which includes one Murugappan, S/o.Chidambaram, alleging the offences under Sections 419, 467, 468, 471, 420 and 120(b) IPC. While taking cognizance of the offences, learned Magistrate directed that the name of Murugappan be deleted and cognizance to be taken against rest of them, and they have to be arrayed as accused Nos.1 to 6.

2.This order has been passed based upon the order of this Court in Cr1.R.C.(MD)No.91 of 2014, dated 17.04.2014. The relevant observations made by this Court reads as under:-

"6.At this juncture, the learned counsel appearing for the accused submitted that Murugappan, the son of Chidambaram was a minor during the time when the alleged sale took place i.e., on 10.06.1999 and he has been deliberately implicated because the complainants want to extort money from him by threatening to mar the career of Murugappan who seems to have qualified in some competitive examinations and is in Government service. It is true that in the guise of investigation, an innocent person should not be subjected to harassment. Therefore, I direct the Investigating Officer to bear in mind this fact and if really, Murugappan was minor at the time of incident and that he was not involved in the sale transactions, then he deserves to be deleted from the array of accused. I am also confident that the learned Magistrate who has ordered further investigation will also be sensitive to this grievance of the learned counsel for the revision petitioner and will definitely guard against false

<https://hcservices.courts.gov.in/hcservices>

3.From the perusal of paragraph No.6 of the order, it is evident that



if Murugappan was a minor at the time of incident and that he was not involved in the sale transactions, then he deserves to be deleted from the array of accused. Therefore, It is the duty of the investigating officer to ascertain whether Murugappan was a minor at the time of incident and whether he was involved in the sale transaction. But, without conducting any enquiry, merely based upon the observations of this Court, name of Murugappan has been deleted. This is the grievance of the revision petitioner.

4. In order to address this issue, the learned counsel appearing for Murugappan was directed to produce the Birth Certificate of Murugappan before this Court and despite the opportunities given, the Birth Certificate is not produced.

5. There is no appearance on behalf of the respondent. Therefore, this Court has no other option, except to set aside the order passed by the learned Magistrate. Accordingly, the order passed is set aside and the matter is remitted back to the learned Magistrate.

6. Accordingly, the learned Judicial Magistrate, Alangudi is directed to ascertain whether Murugappan was a minor on the date of incident or not and to pass further orders in accordance with law, within a period of one month from the date of receipt of a copy of this order.

7. This Criminal Revision Petition stands allowed accordingly. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub-Assistant Registrar

To

1. The Judicial Magistrate, Alangudi.

2. The Chief Judicial Magistrate,
Pudukkottai.

+1 cc to MR.D.Rameshkumar, ADVOCATE, SR No.57380

SH/JGB:15.10.15/2P-4C

CrI.R.C. (MD) No.348 of 2015
29.09.2015