

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.07.2016

Coram

THE HONOURABLE MR. JUSTICE G.CHOCKALINGAM

Cr1.R.C.No.570 of 2010

Thangamani

... Petitioner/Defacto
Complainant

Vs.

1.Thangarasu

2.The State by Inspector of Police,
District Crime Branch
Cuddalore
Cr.No.38 of 2006

... Respondents

Prayer :- Criminal Revision Petition filed under Section 397 r/w 401 of Cr.P.C. against the order dated 22.02.2010 made in CC.No.11 of 2007 on the file of the Learned District Munsif-cum-Judicial Magistrate, Thittakudi.

For Petitioner : Mr.N.Manokaran

For Respondent : Mr.K.V.Sridharan for R1.

Mr.M.Mohammed Riyaz
Government Advocate (Cr1. Side)
for R2

ORDER

The criminal revision petition is directed against the order passed by the learned District Munsif-cum-Judicial Magistrate, Thittakudi in CC.No.11 of 2007 dated 22.02.2010.

2.The learned counsel for the petitioner would contend that the question of criminal revision would lie before this Court against the order of acquittal of the accused by the learned District Munsif-cum-Judicial Magistrate, Thittakudi in CC.No.11 of 2007 as against the complaint given by the Thangamani/defacto complainant/revision petitioner.

3. In the above said circumstances, it is useful to extract Section 372 Cr.PC which reads as follows :-

"372. No appeal to lie unless otherwise provided -
No appeal shall lie from any judgment or order of a Criminal Court except as provided for by this Code or by any other law for the time being in force.

[Provided that the victim shall have a right to prefer an appeal against any order passed by the Court acquitting the accused or convicting for a lesser offence or imposing inadequate compensation, and such appeal shall lie to the Court to which an appeal ordinarily lies against the order of conviction of such Court.]

Amendment Act, 2008 - Clause 29 amends Section 372 of the Code relating to appeals from judgment or order of a Criminal Court it gives to the victim the right to prefer an appeal against any adverse order passed by the trial Court (Notes on Clauses)."

4. As per the above said provisions, the appeal shall lie before the appellate Court to which the appeal ordinarily lie, the appeal has to be necessarily preferred before the concerned Sessions Court. But, in this case, the defacto complainant has not approach the Sessions Court by way of appeal as against the order of the learned District Munsif-cum-Judicial Magistrate, Thittakudi in CC.No.11 of 2007 dated 22.02.2010. If the petitioner aggrieved over the said order she has to prefer an appeal before the concerned Court without following the above said procedures, the petitioner straightaway filed the revision petition before this Court is not at all maintainable and the revision is liable to be dismissed.

5. In the result, the criminal revision petition stands dismissed, with liberty to the petitioner to approach the competent court in accordance with law.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1.The District Munsif-cum
-Judicial Magistrate,
Thittakudi.

2.The Inspector of Police,
District Crime Branch,
Cuddalore.

3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.K.V.Sridharan, Advocate, S.R.No.39348

Crl.R.C.No.570 of 2010

GJ II(CO)
CA(02/08/2016)



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