

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.06.2016

CORAM:

THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

Crl.R.C.No.230 of 2016

Mohan ... Petitioner/Complainant

Vs.

1. V.Veerasekar
2. V.Kavitha
3. S.Sundhar
4. K.Muthukumar
5. R.Kannaiya
6. K.Muthu Lakshmi
7. K.Sutha

... Respondents/Accused

Prayer: Criminal Revision Case filed under Section 397 r/w. 401 of the Code of Criminal Procedure, praying to set aside order dated 27.11.2015 passed by the learned XVIII Metropolitan Magistrate, Saidapet, Chennai, in C.M.P.No.3974 of 2015 in un-numbered C.C./2015.

For Petitioner : Mr.K.Sukumaran

ORDER

This Criminal Revision Case is filed against the order passed by the learned XVIII Metropolitan Magistrate, Saidapet, Chennai, in C.M.P.No.3974 of 2015 in un-numbered C.C./2015, dated 27.11.2015.

2. This Court heard the submissions made by the learned counsel appearing for the petitioner and perused the order passed by the learned XVIII Metropolitan Magistrate, Saidapet, Chennai.

3. The learned counsel appearing for the petitioner would contend that the petitioner has filed a private complaint against the respondents for the offences punishable under Sections 147, 148, 447, 448, 452, 454, 341, 323, 294(b) and 506(ii) of IPC. In the complaint, the complainant had specifically stated that he and his wife namely Anbarasi are the injured persons and one Ayyavoo witnessed the occurrence. The trial Court, without giving opportunity to the petitioner to examine one of the witnesses mentioned in the complaint, had erroneously passed an order as if

there is no prima facie evidence and dismissed the application. The petitioner is always ready to examine the witness namely Ayyavoo, whose name is mentioned in the complaint. The learned counsel for the petitioner further submitted that since there was no sufficient opportunity given to the petitioner to prove his case, the order passed by the learned XVIII Metropolitan Magistrate, Saidapet, Chennai, may be set aside.

4. In this case, since the private complaint is not taken on file, notice was not ordered to the respondents. On verification of records and on a perusal of the order passed by the learned XVIII Metropolitan Magistrate, Saidapet, Chennai, it is seen that the third witness Ayyavoo was not examined by the Court. Further, whether there was sufficient opportunity given to the complainant or not and whether the complainant adduced his own evidence to examine the witness is not at all mentioned in the order. Hence, the argument of the learned counsel for the petitioner that the trial Court has not given an opportunity to examine one of the witnesses mentioned in the complaint has to be accepted.

5. In view of the above circumstances, this Court is of the considered view that the order passed by the learned XVIII Metropolitan Magistrate, Saidapet, Chennai, in C.M.P.No.3974 of 2015 in un-numbered C.C./2015 dated 27.11.2015 is set aside and this Criminal Revision Case is allowed. The learned trial Judge is directed to give sufficient opportunity to the petitioner to examine the witness mentioned in the complaint and pass orders according to law, after hearing the petitioner.

Sd/-

Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

Jrl

To

The XVIII Metropolitan Magistrate,
Saidapet, Chennai.

1 cc to Mr.K. Sukumaran, Advocate, Sr. 32378

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