

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2016

CORAM:

THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

Cr1.R.C.No.787 of 2016

Ravi @ Govindarasu

... Petitioner/Defacto complainant

Vs.

The Station House Officer,
Thavalakuppam Police Station,
Puducherry.

(Crime No.25 of 2015). ... Respondent/Complainant

Prayer: Criminal Revision Case filed under Sections 397 and 401 of the Code of Criminal Procedure, against the judgment dated 20.04.2016 passed by the learned Judicial Magistrate No.I, Puducherry, in R.C.S.No.2 of 2016.

For Petitioner : Mr.G.Thangavel

For Respondent : Mr.J.Kumaran

Government Advocate (Pondicherry)

ORDER

This Criminal Revision Case is directed against the judgment dated 20.04.2016 passed by the learned Judicial Magistrate No.I, Puducherry, in R.C.S.No.2 of 2016.

2. The learned counsel appearing for the petitioner would submit that the respondent police has registered a case in Crime No.25 of 2015 for the offences under Sections 147, 148, 447, 427, 435 and 506(ii) IPC read with Section 149 of IPC and conducted investigation. Since there was a threat by the accused, the petitioner herein has preferred a petition in Cr1.O.P.No.8757 of 2015 before this Court seeking police protection to his life and property and his family members by conducting proper investigation with reference to the pending FIR No.25 of 2015 and in the said petition, this Court, on 27.04.2015, had passed the following order:-

"1. ...

2. ...

3. ...

4. In view of the submission made by the learned Government Advocate (Crl.Side), the police is directed to file a necessary report after due notice to the petitioner so that the petitioner can take appropriate steps in accordance with law.

5. With the above liberty, this petition is closed."

3. The learned counsel appearing for the petitioner would further submit that after the above direction was issued by this Court, the respondent police hurriedly filed a closure report before the learned Judicial Magistrate No.I, Puducherry. Since the petitioner herein was not able to appear before the Court on 20.04.2016, the learned Judicial Magistrate No.I, Puducherry, has passed the impugned order on that date, which reads as follows:-

"2. Today, the de facto complainant called absent. No representation for the de facto complainant. Objections not filed. Sufficient opportunities given to the de facto complainant for the objections. Records perused and considered. Thus Referred Charge Sheet report accepted. Issue slip proceedings."

4. It is also submitted by the learned counsel appearing for the petitioner that the petitioner was regularly appearing before the Court through his counsel, but on the particular date, i.e., on 20.04.2016, he was not able to appear to contest the referred charge sheet filed by the respondent police. The absence of the petitioner/de facto complainant is neither willful nor wanton. Since there was no sufficient opportunity given to the petitioner/de facto complainant, the Criminal Revision Case may be allowed by setting aside the order passed by the learned Judicial Magistrate No.I, Puducherry and the matter may be remitted back to the trial Court.

5. The learned Government Advocate (Pondicherry) appearing for the respondent would submit that the learned Judicial Magistrate No.I, Puducherry, only after perusing the entire records, had passed the impugned order. Hence, there is no infirmity or illegality in the order passed by the learned Magistrate and therefore, the learned Government Advocate prayed that the Criminal Revision Case may be dismissed.

6. On a perusal of the order passed by the learned Judicial Magistrate No.I, Puducherry, it is seen that on the particular date i.e., on 20.04.2016, the de facto complainant was not present. No representation for the de facto complainant. Objections not filed. Sufficient opportunities given to the de

facto complainant for the objections. The argument of the learned counsel for the petitioner is that the petitioner is having a good case and sufficient materials are available to prove his contentions and hence, he prayed that one more opportunity may be given to the petitioner to contest the case. This Court is of the considered view that the argument of the learned counsel for the petitioner is accepted and one more opportunity is given to the petitioner to put forth his contentions before the learned Judicial Magistrate No.I, Puducherry. Hence, the order passed by the learned Judicial Magistrate No.I, Puducherry, is liable to be set aside.

7. Accordingly, the order dated 20.04.2016 passed by the learned Judicial Magistrate No.I, Puducherry, in R.C.S.No.2 of 2016, is set aside and this Criminal Revision Case is allowed and the matter is remitted back to the learned Judicial Magistrate No.I, Puducherry. The revision petitioner/de facto complainant is directed to file his objections, if any, within a period of two weeks from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.I, Puducherry. On receipt of objections, filed if any, the learned Judicial Magistrate No.I, Puducherry, is directed to pass orders, according to law and report the same to this Court.

s/d-
Assistant Registrar(CS-VII)

True Copy

Sub-Assistant Registrar

To

1. The Judicial Magistrate No.I,
Puducherry.
 2. The Station House Officer,
Thavalakuppam Police Station,
Puducherry.
 3. The Public Prosecutor,
Pondicherry.
- + 1 cc to Mr.G.Thangavel, Advocate SR 41910
- + 1 cc to Public Prosecutor cum Govt.Pleader, Puducherry SR 42103

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