



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.06.2016

CORAM:

THE HONOURABLE DR.JUSTICE P.DEVADASS

C.R.L.RC (MD) No.369 of 2016

Rajalakshmi ... Petitioner / Petitioner

-vs-

1. Josephraj
Special Sub Inspector of Police
Suchindram Police Station
Kanyakumari District

2. T. Ravichandran
Sub Inspector of Police
Suchindram Police Station
Kanyakumari District

3. Rajapal
Inspector of Police
Suchindram Police Station
Kanyakumari District

.. Respondents / Respondents

PRAYER: Criminal Revision Petition is filed, under Section 397 r/w 401 Cr.P.C., to set aside the order passed by the learned Judicial Magistrate No.III, Nagercoil, in Cr.M.P.No.5990 of 2015, dated 28.04.2016, by allowing this revision.

For Petitioner: Mr.C.Joseph Sathiyaneson

O R D E R

Since this matter lies in a narrow compass, we shall dispose of this revision today at the admission stage itself.

2. Rajalakshmi, *de facto complainant*, in Crime No.645 of 2015, on the file of Suchindram Police Station, Kanyakumari District, aggrieved by the dismissal of her petition, in Cr.M.P.No.5990 of 2015, which is in the nature of a private complaint under Section 200 Cr.P.C., by the learned Judicial Magistrate No.III, Nagercoil, has directed this revision.



3. In her complaint, the revision petitioner alleged that on 9.9.2015, at about 08.30 a.m., near Kulasekarampudur, while she was walking on the Adavillai road, suddenly the Car TN72 B0177 came driven in a rash and negligent manner, dashed against her, she was thrown away, she got injured and three persons alighted from the Car criminally intimidated her.

4. On her said complaint, Suchindrum Police registered a case in Crime No.645 of 2015, under Sections 279, 337, 506(ii) I.P.C., and under Section 4 of T.N.P.W.H.Act. Subsequently, Rajalakshmi filed a private complaint, under Section 200 Cr.P.C., before the learned Judicial Magistrate No.III, Nagercoil, against the respondents, who are police personnel attached to Suchindrum Police Station, alleging that a copy of F.I.R., in Cr.No.645 of 2015 was not given to her and the F.I.R., was also not sent to the Court immediately and thus the respondents have committed an offence under Section 166 I.P.C.

5. The learned Magistrate, having found that there is no *prima facie* case, dismissed her complaint. Naturally, it would be under Section 203 I.P.C.

6. The learned counsel for the revision petitioner would further submit that the copy of the F.I.R., has not been given to the *de facto* complainant. So, Section 154(2) Cr.P.C., has been violated. Further, as per Section 157 Cr.P.C., the F.I.R., has to be sent to the jurisdictional Magistrate immediately, however, it was sent to Court, only after 12 days. She had also sustained injury. Thus, the respondent have disobeyed the law and have committed an offence under Section 166 Cr.P.C.

7. The learned counsel for the revision petitioner also submitted that the injury sustained by her will fall under Section 44 I.P.C., which deals with injury. If one read Section 166 I.P.C., carefully together with the said Section 44 I.P.C., it could be understood that the Police personnels have committed an offence under Section 166 I.P.C. Thus, there is *prima facie* case for an offence under Section 166 Cr.P.C.

8. Section 154 (2) Cr.P.C., mandates furnishing of copy of F.I.R., to the informant. F.I.R., so registered shall be sent to Court with least delay. It is also called despatching of the F.I.R., to Court.

9. The word "Injury" relates to body and mind. In this case the *de facto* complainant is stated to have sustained physical injury in Cr.No.645 of 2015 and not in the present case. But, non-furnishing of copy of F.I.R., nor sending it immediately to the Court will not be an injury under Section 166 I.P.C.



10. Furnishing copy of the F.I.R., to the informant is an important duty of a Police Officer. An informant has the right to receive a copy of the F.I.R. So also the accused. He is entitled to know the accusations made against him. When a person is arrested under Section 41 Cr.P.C., he is entitled to know the grounds of arrest. Otherwise, it will be violative of Article 21 of the Constitution of India.

11. Non-furnishing of copy of the F.I.R., in violation of Section 154(2) Cr.P.C., or non-despatching of F.I.R., in time to the Court may be a ground for disciplinary action and not a ground to prosecute a person under Section 166 I.P.C. In the facts and circumstances, there is no *prima facie* case for an offence under Section 166 I.P.C., as against the respondents. Therefore, the learned Magistrate is right in dismissing the private complaint.

12. All informations will not become First Information. The information, which discloses commission of a cognizable offence alone will become First Information. That alone will be F.I.R. Section 154(2) Cr.P.C., is a salutary provision. It is a check on the Police. It introduces transparency. If copy of F.I.R., is given to the complainant / informant, he will know whether a case has been properly registered based on his complaint. Not giving a copy of F.I.R., is a grave concern in a democratic society. Police can fairly give copy of F.I.R. That will show fairness in their action. In this case, had the Police given the copy of F.I.R., to the revision petitioner, this case would not have been filed.

13. In view of the above, this revision fails and it is dismissed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

krk

To:
The Judicial Magistrate No.III, Nagercoil.

GJM/SKS/RR/23.6.16-3p-2c

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