

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.07.2017

Coram ::

THE HONOURABLE MR. JUSTICE R.SURESH KUMAR

Crl.R.C.No.502 of 2017

Prabavathy

... Petitioner

versus

1.Chockalingam
2.Dhanaraj
3.Stalin
4.Lalitha
5.Usha
6.Deepa
7.Madhan
8.Mr.Arulanandam,
Sevvapet Police Station,
Tiruvallur District.

... Respondents

Prayer: Criminal Revision Petition has been filed under Section 397 read with 401 of the Criminal Procedure Code to call for the records pertaining to the order passed by the Judicial Magistrate No.II, Tiruvallur, Tiruvallur District in C.M.P.No.369 of 2017 dated 23.01.2017 and to set aside the same.

For Petitioner : Mr.M.Prabakar

For respondents : Mr.P.Parthipan,
for respondents 1 to 6
Mr.Karthikeyan, for R-7
Mr.R.Sekar, Government Advocate (Crl. Side)
for 8th respondent

ORDER

This Criminal Revision Petition has been filed against the order passed by the Judicial Magistrate No.II, Tiruvallur, in C.M.P.No.369 of 2017 dated 23.01.2017.

2. The short facts of the case is that the petitioner claims to have given a complaint to the Inspector of Police, Sevvapet Police Station, Tiruvallur Taluk and District, on 12.10.2016. According to the said complaint, on 11.10.2016 at about 6.30 p.m., the first respondent and other respondents had picked up a wordy quarrel with regard to some local issues between them and with the result, the first respondent had kicked the petitioner's stomach and abused her in filthy language. As a result, the petitioner claims that, she has sustained grievous injuries. In that incident, other respondents herein also joined with the first respondent and they continued to beat the petitioner and only with the help of the neighbors, it was claimed by the petitioner, that she was rescued. Thereafter, the petitioner was taken to Tiruvallur Government Hospital by the neighbours and relatives where the petitioner was admitted as inpatient.

3. In the hospital, the petitioner had taken treatment as inpatient. In this regard, the wound Certificate dated 12.10.2016 issued by the Government Hospital, Tiruvallur, has also been produced, which reveals that the petitioner had taken treatment as inpatient. According to the Wound Certificate, she had been treated for grievous injuries.

4. It is the further case of the petitioner that since she was hospitalized on the evening of 11.10.2016 itself, she could not immediately file any compliant before the concerned Police. However, the petitioner claims that

she had given compliant on 12.10.2016.

5. In the meanwhile, the respondents seem to have given a complaint before the concerned Police Station on 11.10.2016 about 8.00 P.M and the said compliant was taken on file and registered in F.I.R.No.355 of 2016 on 14.10.2016 at 13.30 hours.

6. Since the compliant given by the respondents' side has been registered as F.I.R by the Police concerned, the petitioner had to approach the Court of Sessions, Tiruvallur to get Anticipatory Bail. Her petition for Anticipatory Bail in Crl.M.P.No.3999 of 2016 along with her husband and son had been considered and order was passed by the Sessions Court on 24.10.2016.

7. Thereafter, since the compliant given by the petitioner has not been registered, the petitioner had approached the Judicial Magistrate No.II, Tiruvallur, by filing a private compliant under Section 156(3) of Cr.P.C. and the same was taken on file as C.M.P.No.369 of 2017.

8. By way of the impugned order, the learned Judicial Magistrate has rejected the said petition. As against the said rejection of the complaint of the petitioner, the present revision has been filed.

9. I have heard Mr.M.Prabakar, learned counsel appearing for the petitioner and Mr.R.Sekar, learned Government Advocate (Crl.Side) as well as Mr.P.Parthiban and Mr.Karthikeyan, learned counsel appearing for respondents.

10. The learned counsel appearing for the private respondents would submit that immediately after the occurrence on 11.10.2016 at 6.30 P.M, on behalf of the respondents, a complaint was lodged before the Police at about 8.00 P.M on the same day. However, the said complaint was registered by the Police only at 13.30 hours on 14.10.2016 in F.I.R.No.355 of 2016. Therefore, the learned counsel appearing for the private respondents would submit that in view of the quarrel which ended in scuffling, the respondents had sustained injuries and they were abused by the petitioner and her family members, and as such, complaint was given, and the same was duly registered by the Police.

11. However, Mr.M.Prabakar, learned counsel appearing for the petitioner would submit that the petitioner being a lady, cannot overpower men and women in a group and they in fact had overpowered the petitioner and with the result, the petitioner sustained injuries. She was rescued by her neighbors and relatives and the petitioner was admitted in Tiruvallur Government Hospital, where she had been taking treatment as inpatient

12. In this regard, the learned counsel for the petitioner would also submit that the Wound Certificate dated 12.10.2016 issued by the Government Hospital, Tiruvallur would reveal the fact that the petitioner had sustained grievous injuries. He would also submit that because of the serious nature of the injury sustained and she was taking treatment as inpatient in the hospital, she could not go to the Police Station immediately after the occurrence and therefore she was able to give compliant only on 12.10.2016.

13. The learned counsel appearing for the petitioner would submit that the said compliant should have been registered and investigated by the Police, which they miserably failed. Therefore, the petitioner had no other option than to approach the Court below by filing petition under Section 156 (3) of Cr.P.C. However, the learned Magistrate without considering the issue in a proper perspective, has dismissed the said complaint. Therefore, the learned counsel would submit that suitable direction has to be given to the concerned Police to take the complaint of the petitioner on file and investigate the same in accordance with law.

14. Mr.R.Sekar, learned Government Advocate (Crl.Side), by relying upon the counter affidavit filed by the Inspector of Police, Sevvapet Police Station, Thiruvallur District, submitted that it is a case and counter where the earliest complaint given by the respondents had been registered and it has been investigated.

15. It is also the version of the Police that no complaint was given by the petitioner on 12.10.2016 and if really, the petitioner had given complaint, certainly, that complaint would have also been registered and investigated. In the absence of any such complaint, the Police had not registered the same.

16. I have heard the submissions made by the learned counsel for the parties.

17. The undisputed fact as it is revealed from the records filed before this Court is that the petitioner sustained injury on 11.10.2016 and she was hospitalized on the very same day, where she was taking treatment as inpatient. The Wound Certificate issued by the Government Hospital, Thiruvallur dated 12.10.2016 shows that the petitioner had sustained grievous injuries. When the petitioner had given a complaint on 12.10.2016, it is the duty of the Police to investigate the matter. Had the Police investigated the issue on the complaint given by the petitioner, which would be converted as first information report, certainly the fact that the petitioner sustained injury and that she was taking treatment in the Hospital would have come to light. In this regard, the failure on the part of the Police is not explained before this Court to the satisfaction.

18. Moreover, as has been rightly pointed out by the learned counsel appearing for the petitioner, only pursuant to the complaint given by the

respondents, first information report was filed and the petitioner had to rush to the Court to take Anticipatory Bail. When the said petition for Anticipatory Bail was taken into consideration, the Court below has recorded a finding that no one had sustained injury. Therefore, the fact that no one had sustained injury on the side of the respondents had influenced the learned Judge to grant anticipatory bail to the petitioner.

19. Therefore, in that circumstances, the only course of action available to the Police is to register the complaint of the petitioner and investigate both the complaints. Since the Police have failed to act in accordance with law and since it has not been properly considered by the learned Magistrate in the order impugned, this Court has no hesitation to hold that the impugned rejection made by the learned Magistrate is unsustainable and therefore, that order has to go.

20. Accordingly, the said impugned order passed by the Court below is set aside.

21. As a sequel, the Inspector of Police, Sevvapet Police Station, Thiruvallur District is directed to take the complaint of the petitioner dated 12.10.2016 on file and investigate the same in accordance with law. It is made clear that while making such investigation, the complaint already filed by the respondent where the F.I.R was also registered, should also be correspondingly

R.SURESH KUMAR, J.

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investigated and ultimately charge sheet if need be, filed in accordance with law, within a period of three months from the date of receipt of a copy of this order.

22. With these directions, the Civil Revision Petition is disposed of.

14.07.2017

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To

1.Mr.Arulanandam,
Sevvapet Police Station,
Thiruvallur District.

2.The Judicial Magistrate No.II,
Thiruvallur,
Thiruvallur District.

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