

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.04.2017

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

CrI.R.C.No.523 of 2014

Muthuswami

... Petitioner

vs

1.Venkatesan
2.Sankar
3.Radha
4.Aanaiyan

.... Respondents

Criminal Revision Case filed under section 397 r/w 401 of the Code of Criminal Procedure, to call for the records relating to CMP.No.4227 of 2012 dated 10.06.2013 on the file of the learned Judicial Magistrate, Thirukoilur and set aside the same.

For Petitioner : Mr.B.Harikrishnan

For Respondents: Mr.P.Rajavel for R1 to R3

Mr.K.Ramesh for R-4

O R D E R

This Criminal Revision Case has been filed against the order passed by the learned Judicial Magistrate, Thirukoilur in CMP.No.4227 of 2012 dated 10.06.2013.

2. The petitioner is the defacto complainant in Crime No.75 of 2010 on the file of the Inspector of Police, Manalurpettai Police Station, Villupuram District. Earlier, based on the complaint given by the petitioner, a crime was registered for an offence under Sections 448, 294(b), 324, 323 and 506(ii) IPC against 4 persons. After investigation, the Inspector of Police filed a final report in respect of accused 1 to 3 and leaving alone the 4th accused. In the above circumstances, the petitioner has filed a petition before this Court in CrI.O.P.No. 15937 of 2010 seeking a direction for further investigation in Crime No.75 of 2010 for the purpose of including some other accused involving the case and also to include the offence under Section 307 r/w 34 IPC. This Court, by order dated 11.08.2010, passed the following order:-

"3. Considering the grievance of the petitioner and after hearing the learned Government Advocate (Crl.Side), who informs that the case is numbered as C.C.No.125 of 2010 on the file of the learned Judicial Magistrate No.I, Thirukoilur and stands posted for the appearance of the accused, this Court directs the petitioner to prefer a private complaint before the learned Judicial Magistrate No.I, Thirukoilur. Such complaint shall be jointly tried with the case in C.C.No.125 of 2010 and by following the procedure contemplated for cases arising out of a police report"

But, the Court below without following the said order passed by this Court, considered the private complaint independently and dismissed the same. It is also brought to the notice of this Court that the same Judicial Magistrate after trial acquitted all the other accused in C.C.No.125 of 2010 on 10.06.2003. Challenging the above said order dismissing the private complaint, the present criminal revision case has been filed.

3. I have heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents and perused the materials available on record.

4. Even though this Court directed the Court below to jointly try the petitioner's private complaint, as well as the case instituted on the police report, the Court below without considering the order passed by this Court, independently considered the private complaint and dismissed the same under Section 203 of Cr.P.C. However, the learned Judicial Magistrate considering the private complaint on merits and satisfied from the material available on record that there is no prima facie case made out and dismissed the complaint. Apart from that now in the another case, after trial, all the accused were acquitted by the Court below. In the above circumstances, as the other accused also acquitted in a separate trial, and the Judicial Magistrate after considering all the materials available on record dismiss the complaint, there is no reason to interfere with the order of the Court below. In the above circumstances, I find no merit in the criminal revision case and the same is liable to be dismissed.

5. In the result, the criminal revision case is dismissed.

-s/d-
Assistant Registrar (CS-II)

True Copy

Sub-Assistant Registrar

To

1. The Judicial Magistrate.
Thirukovilur.
 2. The Chief judicial Magistrate
Thirukovilur
 3. The Section Officer
VR Section
High Court, Madras
(To call for explanation from the Judicial Magistrate,
Thirukovilur)
 4. The Section Officer
Criminal Section
High Court, Madras
- +1 CC to Mr. P. Rajavel, Advocate sr 23116

सत्यमेव जयते

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GJ (CO)
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