

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2017

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

Crl.R.C.No.1198 of 2016
and
Crl.M.P.No.10707 of 2016

Kumar @ Kosa Kumar @ Chandiran ... Petitioner

Vs.

1. The Sub Divisional Magistrate (South)
Villianur,
Pondicherry.
2. The Station House Officer,
Kirumampakkam Police Station,
Kirumampakkam,
Pondicherry.
Crime No.38 of 2016. ... Respondents

Criminal Revision Case filed under Section 397 and
401 Cr.P.C. against the order of first respondent passed
in M.C.No.406 of 2016 on 06.09.2016.

For Petitioner : Mr.B.Balavijayan,
No representation

For Respondent : Mr.M.R.Thangavelu
Additional Public Prosecutor (P)

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O R D E R

This revision arises against the order of first
respondent passed in M.C.No.406 of 2016 on 06.09.2016.

2. No representation for petitioner. Heard learned
Additional Public Prosecutor (P).

3. The prime contention of petitioner is that in
passing the order under challenge and in exercise of
power u/s.144 Cr.P.C., no notice was served on him.

Though sub-section 2 of Section 144 Cr.P.C. permits an authority/first respondent to pass an order ex parte in cases of emergency or in cases where the circumstances do not admit service of notice on the person against whom the order is directed, the first respondent could have acted under such provision only after informing in his order the circumstances/emergency which necessitated his passing an order ex parte. The order under challenge fails on such score.

The Criminal Revision Case shall stand allowed. The order of first respondent passed in M.C.No.406 of 2016 on 06.09.2016, shall stand set aside. The present order shall not stand in the way of first respondent

exercising his powers u/s.144 Cr.P.C. afresh. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

gm

To

1. The Sub Divisional Magistrate (South)
Villianur,
Pondicherry.
2. The Station House Officer,
Kirumampakkam Police Station,
Kirumampakkam,
Pondicherry.
3. The Additional Public Prosecutor, for Puducherry
High Court, Madras.

+1cc to the Government Pleader, Puducherry S.R.No.6362

AD(CO)

RS(24/02/2017)

Cr1.R.C.No.1198 of 2016