



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.07.2017

C O R A M

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**THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN**

Criminal Revision Case (MD) No.133 of 2017

Anthony Rajan

... Petitioner/Accused

**Vs.**

Duraipandi Nadar

... Respondent/Complainant

Petition filed under Section 397 read with 401 Cr.P.C., to call for the records in C.C.No.321 of 2016 on the file of the learned Judicial Magistrate, Sathankulam, Thoothukudi District and set aside the order dated 07.12.2016.

For Petitioner : Mr.A.Thiruvadikumar  
For<sup>t</sup> Respondent : Mr.T.Vadivelan

**ORDER**

This Criminal Revision Case is directed against the issuance of summons to the petitioner under Section 204 of the Code of Criminal Procedure, 1973 in a private complaint instituted by the respondent.

2.Learned counsel for the petitioner submitted that earlier based on the complaint given by the respondent, a case has been registered against five accused for the offences punishable under Sections 147, 341, 294(b) and 506 (ii) IPC. After completion of investigation, the Investigating Officer filed a final report wherein the petitioner's name has been excluded. Subsequently, the respondent filed a protest petition and the same was also dismissed. Thereafter, the petitioner filed a private complaint on the very set of allegations. Now, the learned Judicial Magistrate taken cognizance of offence and issued process against the petitioner under Section 204 of the Code of Criminal Procedure, 1973. He would further submit that once the final report has filed excluding the name of the petitioner and based on the very set of allegations, learned Judicial Magistrate cannot take cognizance and issue process under Section 204.

3.Per contra, learned counsel for the respondent would submit that the materials available on record would clearly



establish that there are prima facie materials available against the petitioner and therefore, the learned Judicial Magistrate has taken cognizance of the offence and issued process under Section 204 of the Code of Criminal Procedure and therefore, there is no illegality or irregularity in the order passed by the trial Court.

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4.I have considered the rival submissions and also perused the materials available on record.

5.A perusal of the materials placed before this Court would show that in the earlier complaint, after completion of the investigation, the Investigating Officer has filed final report excluding the name of the petitioner wherein the material available against all the five accused. When the allegations were made against all the accused, it is not known as to why the name of the petitioner alone has been excluded by the Investigating Officer. However, after considering the complaint as well as the sworn in statement, the learned Judicial Magistrate finds that there are *prima facie* materials available against the petitioner, and hence, he issued process to the petitioner.

6.In view of the above, I find no irregularity or infirmity in the order passed by the learned Judicial Magistrate dated 07.12.2016. Accordingly, the Criminal Revision Case is dismissed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

**To**

The Judicial Magistrate,  
Sathankulam,  
Thoothukudi District.

+ 1 CC TO Mr.A.THIRUVADI KUMAR, ADVOCATE IN SR No. 63534  
+ 2 CC TO Mr.T.VADIVELAN, ADVOCATE IN SR No. 63588

SMS

TE/JC/SAR-I : 17/07/2017 : 2P/5C

Order made in  
Criminal Revision Case (MD) No.133 of 2017  
05.07.2017