



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.08.2017

CORAM :

THE HONOURABLE MR.JUSTICE V.BHARATHIDASANCrl.R.C (MD) No.258 of 2017

WEB COPY

S.B.Suriya Narayanan

... Petitioner

Vs.

1.State rep.by

The Inspector of Police,
Rajapalayam South Police Station,
Virudhunagar District,
Crime No.161 of 2013.

2.S.A.Ganesha Raja

3.S.N.Arjuna Raja

4.E.V.Sathiyarayanan

5.S.R.Ramaraja

6.S.A.Palaram Raja

7.I.P.Sathiyarayanan

... Respondents

Petition filed under Sections 397 read with 401 Cr.P.C, to call for records from the lower court order dated 05.01.2017 made in Crl.M.P.No.161 of 2013 on the file of the Judicial Magistrate Court, Rajapalayam and set aside the same and direct the first respondent to reinvestigate the petitioner's complaint as prayed for.

For Petitioner	: Mr.R.Gandhi
	for Mr.K.K.Samy
For R - 1	: Mr.C.Mayilvahan Rajendran
For RR - 2 to 7	: Mr.N.Dilipkumar

ORDER

Challenging the order, dismissing the petitioner's protest petition, this Criminal Revision Case has been filed.

2.The case of the petitioner, in brief, is as follows:

The petitioner is one of the members of one Sathriya Rajus General Maha Sabai. The above Maha Sabai decided to renovate some temples, situated in Rajapalayam. The respondents 2 to 7, being the President, Secretary, Treasurer and Office Bearer of the service, collected donations around Rs.22,00,000/- for the purpose of renovating the temples and out of which, they misappropriated a sum of Rs.5,00,000/- and thereby they committed



offence. Hence, the petitioner has filed a complaint before the first respondent police. Since the first respondent police did not take any action, he filed a petition under Section 156(3) Cr.P.C. before the Court below, seeking a direction to register the complaint. But the Court below treated the above application as a private complaint and dismissed the same under Section 203 Cr.P.C. Challenging the same, the petitioner preferred Crl.R.C.No.50 of 2012 on the file of this Court. This Court, by the order dated 22.08.2012, directed the learned Magistrate, Rajapalayam to look into the complaint and pass orders in accordance with law under Section 156(3) Cr.P.C. Thereafter, the Judicial Magistrate, Rajapalayam, by the order dated 09.10.2012 directed the first respondent police to register the complaint. Hence, a case has been registered in Crime No.161 of 2013 for the offence under Sections 406, 468, 471, 420 and 506(i) IPC and after completing investigation, the first respondent police filed final report, closing the complaint as 'mistake of fact'. Thereafter, notice has been issued to the petitioner and after receipt of the notice, the petitioner filed a protest petition and the same was dismissed by the Court below. Challenging the same, the present Criminal Revision Case has been filed.

3.I have heard Mr.R.Gandhi, learned counsel appearing for the petitioner, Mr.C.Mayilvahan Rajendran, the learned Additional Public Prosecutor appearing for the first respondent and Mr.N.Dilipkumar, learned counsel appearing for the respondents 2 to 7 and perused the records carefully.

4.The learned counsel appearing for the petitioner submitted that the Court below without assigning any reason whatsoever, has mechanically dismissed the complaint, accepting the final report filed by the first respondent police. But, there are materials available on record to show that the respondents 2 to 7 have misappropriated the donation collected by them and thereby committed offence. The first respondent police without considering the materials available on record, has mechanically closed the complaint as mistake of fact. The Court below has also accepted the same without assigning any reason. Hence, the learned counsel for the petitioner sought for remanding the matter to the Court below for fresh consideration of the petition.

5.*Per contra*, the learned counsel appearing for the respondents 2 to 7 submitted that after registering the complaint, the first respondent police has conducted thorough investigation and he has examined the auditor, who audited the accounts of the above Maha Sabha and also recorded the statement of the persons involved in the renovation of temples and after considering all the materials, filed final report, closing the complaint, as mistake of fact. Since there is no material available on record ~~prima facie to make out offence against the respondents 2 to 7,~~ the Court below has rightly dismissed the petition and there is no illegality or infirmity in the order passed by the Court below.



6.I have considered the rival submissions made on either side and perused the records carefully.

7.The main contention of the learned counsel for the petitioner is that the Court below dismissed the protest petition without assigning any reason whatsoever. However, from the perusal of the order passed by the Court below, it could be seen that the the Court below considered the protest petition filed by the petitioner as well as considered the rival submissions and also perused the final report filed by the first respondent police and ultimately come to the conclusion that there is no material available on record to order for further investigation in this case and accepted the final report filed by the first respondent police, passed the impugned order. Hence, the first contention put forth on the side of the petitioner cannot be countenanced.

8.This Court has also carefully considered the entire materials available on record, including the final report filed by the first respondent police. From the perusal of the records it could be seen that after registering the complaint, the first respondent police conducted a detailed enquiry and based on the recommendation of the Sabha members, accounts of the said Sabha has been audited by an auditor and he has also given a report stating that there is no misappropriation of funds. Apart from that, on investigation, the first respondent police has also found that there is no threat or any criminal intimidation by the respondents 2 to 7 and after completing investigation and based on the available materials, the first respondent police has filed the final report, closing the complaint as mistake of fact.

9.Considering the above facts and circumstances of the case and also on a perusal of the order passed by the Court below, I find no irregularity or illegality in the order passed by the Court below.

10.In fine, this Criminal Revision Case is dismissed.

Sd/-

Assistant Registrar(CS-I)

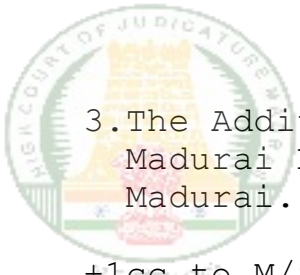
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Sub Assistant Registrar

To

1.The Judicial Magistrate Court, Rajapalayam

2.The Inspector of Police,
Rajapalayam South Police Station,
Virudhunagar District.



3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/S.N.DILIP KUMAR, Advocate SR.No.73758

+1cc to M/S.K.K.SAMY, Advocate SR.No.74351

mj

MAS/MR-KKR/SAR3:12.09.2017:4P-6C

Cr1.R.C (MD) No.258 of 2017
22.08.2017