



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.11.2017

CORAM:

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THE HONOURABLE MR.JUSTICE A.M.BASHEER AHAMED

Cr1.RC(MD)No.715 of 2017

[Orders Reserved on 23.10.2017]

Seetharaman ... Petitioner / Petitioner / PW1

Vs.

1. Ramamoorthy ... 1st Respondent / R1 / A1

2.State Rep.by

The Inspector of Police,
Thiruchitrambalam Police Station,
Thanjavur District
In Crime No.21 of 2009.

... 2nd Respondent / Complainant

Prayer: Revision is filed under Section 397 r/w 401 of Cr.P.C., praying to call for the records pertaining to order passed in Cr.M.P.No.4660 of 2017 in S.T.C.No.1308 of 2009 on the file of the learned Judicial Magistrate, Pattukkottai, dated 02.08.2017 and set aside the same.

For Petitioner : Mr.B.Anandan

For Respondent-2 : Mr.T.Mohan

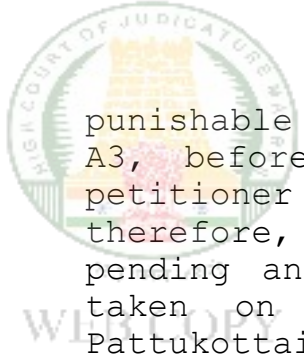
Addl.Public Prosecutor

O R D E R

The Criminal Revision has been filed praying to set aside the order passed in Cr.M.P.No.4660 of 2017 in S.T.C.No.1308 of 2009, on the file of the learned Judicial Magistrate, Pattukkottai, dated 02.08.2017.

2. The Criminal Revision is taken up for final hearing, in the admission stage itself, with the consent of the counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for R2. R1 did not turn up, even after receipt of private notice in the proceedings.

3. The 2nd respondent herein has registered a case against the first respondent herein in Crime No.21 of 2009 under Sections 147, 342, 294(b) and 323 of IPC., on the basis of the complaint of the petitioner herein and charge sheet was also laid and cognizance was taken and is pending as S.T.C.No.1308 of 2009, for the offences



punishable under Sections 342, 294(b) and 328 of IPC., against A1 to A3, before the learned Judicial Magistrate, Pattukkottai. The petitioner has further stated that A2 and A3 have not appeared and therefore, bailable warrants were issued against A2 and A3 and are pending and A1 alone was appearing and while this said case was taken on 22.04.2006, before the learned Judicial Magistrate, Pattukkottai and was ordered that S.T.C.proceedings was stopped without pronouncing the judgment, since the case is pending for past seven years without any progress and released the accused and such release shall have the effect of discharge under Section 258 of Cr.P.C.

4. The petitioner / defacto complainant filed Cr.M.P.No.4660 of 2017 under Sections 259 Cr.P.C., to reopen the case in which the proceedings were stopped, while bailable warrants are pending for seven years and was dismissed by the trial Court in its order dated 02.08.2017. Aggrieved by that order, the petitioner / defacto complainant has filed the present criminal revision to set aside the order passed in his application.

5. The learned counsel appearing for the petitioner would submit that the pending bailable warrants was not intimated to the higher police officials as well as the defacto complainant and the respondent police did not take effective steps to execute the bailable warrants against the accused and such pendency of bailable warrants against the accused is not a ground for throwing overboard the prosecution case and the learned Magistrate cannot order to stop the proceedings under Section 258 Cr.P.C., and hence, the said order is also illegal.

6. I have perused the materials available on record. Heard and considered the rival submissions advanced by either side.

7. Admittedly, the 2nd respondent has not taken any steps to reopen the proceedings, which were stopped under Section 258 Cr.P.C., as per the order of the learned Magistrate on 22.04.2016 by way of filing any requisition or petition. The defacto complainant, who is the petitioner herein, filed the impugned application to reopen the proceedings. It is not correct to say that the proceedings were stopped under Section 258 of Cr.P.C., without filing final report. The only reason assigned to reopen the proceedings in STC.No.1308 of 2009 to try the cases registered in Crime No.29 of 2009 and Crime No.36 of 2012 along with the present case, which was registered in Crime No.21 of 2009. No other valid reason is assigned for reopening the proceedings. The decision relied on by the counsel for the petitioner in Renuka Vs. State of Karnataka and Another reported in (2010) 1 Supreme Court Cases (Cri) 1375 is not applicable to the facts of the present case on hand. On perusal of the impugned order passed by the learned Magistrate, there is no valid and acceptable reasons to interfere with the order for reopening the proceedings, which were closed already under Section 258 Cr.P.C.,



8. Considering the above facts and circumstances of the case, this Court is not inclined to interfere with the impugned order, dated 02.08.2017, passed in Cr.M.P.No.4660 of 2017, by the learned Judicial Magistrate, Pattukkottai.

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9. In the result, the Criminal Revision Petition stands dismissed.

Sd/-
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

- 1.The Judicial Magistrate,
Pattukkottai,
- 2.The Chief Judicial Magistrate,
Tanjore at Kumbakonam.
- 3.The Inspector of Police,
Thiruchitrambalam Police Station,
Thanjavur District
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 5.The Record Keeper,
Criminal Record Section
Madurai Bench of Madras High Court.

+1cc to M/S.B.Anandan, Advocate SR.No. 87133

Orders made in
Crl.RC(MD)No.715 of 2017

Dated:-
10.11.2017

mpk
JM/SKN RSK/SAR 1/22.11.2017/3P/7C