



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.09.2017

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THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Crl.R.C(MD).No.390 of 2016 and
Crl.R.C(MD).No.391 of 2016 and
Crl.M.P.(md).4669 of 2016 and
Crl.M.P.(md).4671 of 2016

Crl.R.C(MD).No.390 of 2016:

1.K.Ramadoss
2.T.R.Karunakaran
3.Rajmohan
4.Selladurai .. Petitioners/Petitioners/Accused 1 to 4

-Vs-

Sundaresan .. Respondent/Respondent/Complainant

Prayer : Criminal Revision Case filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the records and set aside the order dated 03.12.2015 passed in Crl.M.P.No.203 of 2014 in S.C.No.229 of 2013 on the file of the Learned Chief Judicial Magistrate, Thanjavur at Kumbakonam, Thanjavur District.

Crl.R.C(MD).No.391 of 2016:

1.T.R.Loganathan
2.Kannan .. Petitioners/Petitioners/Accused 5 & 6

-Vs-

Sundaresan .. Respondent/Respondent/Complainant

Prayer : Criminal Revision Case filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the records and set aside the order dated 03.12.2015 passed in Crl.M.P.No.203 of 2014 in S.C.No.229 of 2013 on the file of the Learned Chief Judicial Magistrate, Thanjavur at Kumbakonam, Thanjavur District.

In both Crl.R.Cs:

For Petitioners : Mr.A.Thiruvadikumar
For Respondent : Mr.V.Maragathavel

COMMON ORDER

The petitioners are accused in a private complaint filed by the respondent/complainant in S.C.No.229 of 2013, on the file of the



learned Chief Judicial Magistrate Court, Thanjavur at Kumbakonam, Thanjavur District. Earlier, the respondent herein filed a complaint against the petitioners/ A-1 to A-4 for the offence under Sections 307, 436 and 506(ii) I.P.C and the petitioners /accused Nos.4 & 5 with the aid of Section 109 I.P.C. The trial court took cognizance of the offence and issued summons to the petitioners. Thereafter, the petitioners filed a petition to discharge them from the above charges. The court below dismissed the same. Now, challenging the order of dismissal, the petitioners/accused are before this Court with these Criminal Revision Cases.

2.I have heard A.Thiruvadikumar, learned counsel appearing for the petitioners and Mr.V.Maragathavel, learned counsel appearing for the respondent and perused the records carefully.

3.The learned counsel appearing for the petitioners would contend that the respondent has given a private complaint stating that on 21.06.2004, when he was sleeping in his house, A-1 to A-4 set fire to his house and then, he came out the house and seen the occurrence. He got fainted and admitted in a hospital and he has taken treatment for 20 days. He also given a sworn in statement and also examined his wife and another person. Based on the same, the trial court has also taken cognizance and issued summons to the petitioners.

4. The learned counsel appearing for the petitioners further submitted that from the perusal of the complaint, it is seen that on the date of occurrence, when the complainant was sleeping inside the house and he saw the house was under fire. Then, he came out of the house and saw A-1 to A-4 going in a bike and warned him that the complainant should not go to the Court hereafter, otherwise, he would be finished of. Thereafter, he filed a complaint. In the sworn-in statement also, the complainant stated that he only saw the accused going in a bike. The other witnesses are not the eye witnesses to the occurrence. The third witness also stated that he only saw the accused going in a bike on the river side. Hence, absolutely, there is no material available against the accused to make out a prima facie case. In such circumstances, they filed a petition to discharge them from the charges. The trial court, without considering the materials available on record, has dismissed the application.

5.Per contra, the learned counsel appearing for the respondent submitted that there are materials available on record to show that a prima facie case is made out against the petitioners/A-1 to A-4 that they have set fire to the house of the complainant. A-5 and A-6 have abetted them to commit the offence. The sworn in statement and other materials prove that it is only these accused, who have set fire to the house of the complainant, due to the previous enmity. The trial court, after considering the materials in proper perspective, has come to the conclusion that there is a prima facie case made out against the petitioners. Hence, there is



no illegality or irregularity in the order passed by the court below.

6.I have considered the rival submissions.

7.From the perusal of the complaint filed by the respondent, it is seen that there was a previous enmity between the complainant and the petitioners herein and on 21.06.2004, while the complainant was sleeping inside the house, he saw the house was burning. Then, he came out. At that time, he saw A-1 to A-4 were going in a bike and warned him that if he goes to the Court, he would be finished of. Then, the complainant got fainted, thereafter, he was taken to the hospital and admitted. In the sworn-in-statement also, he has stated the same. Apart from that, the other witness viz., the wife of the complainant also stated that the accused said to have set fire to her house but, she did not see the accused. The other witness also stated that he saw the accused going in a bike near the river side. Hence, absolutely, there is no material to show that these accused set fire to the house of the complainant. Apart from that, for the offences under Sections 307, 436 and 506(ii) I.P.C, absolutely, there is no material available on record.

8.In the above circumstances, I find that there is no prima facie material available on record to proceed with the petitioners/accused. The trial court, without considering the same, has wrongly dismissed the discharge petition.

9.In the result, these criminal revision cases are allowed. The order passed in CrI.M.P.No.203 of 2014 in S.C.No.229 of 2013 by the learned Chief Judicial Magistrate, Thanjavur at Kumbakonam, Thanjavur District is set aside, and the petitioners are discharged from all the charges.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

The Chief Judicial Magistrate,
Thanjavur at Kumbakonam.

+ 1 CC TO Mr.A.THIRUVADI KUMAR, ADVOCATE IN SR No. 80456

VS

TE/MR-KKR/SAR-3 : 20/12/2017 : 3P/3C

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