



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.08.2017

CORAM :

THE HONOURABLE MR.JUSTICE V.BHARATHIDASANCrl.R.C (MD) No.460 of 2016

WEB COPY

P.Sivasubramanian

... Petitioner

Vs.

K.T.Rajendra Balaji

... Respondent

Petition filed under Sections 397 read with 401 Cr.P.C, to call for the records pertaining to the order dated 28.04.2016 passed in Cr.M.P.No.3901 of 2016 on the file of the Judicial Magistrate, Rajapalayam and set aside the same and consequently direct the Judicial Magistrate, Rajapalayam to pass an order to register the complaint against the respondent.

For Petitioner

: Mr.Mr.Niranjana S.Kumar
for Mr.R.Ragavendran

For Respondent

: Mr.M.Ajmal Khan
Senior Counsel
for M/s.Ajmal Associates

Orders reserved on : 07.08.2017

Orders pronounced on : 30.08.2017

ORDER

This Criminal Revision Case has been filed challenging the order, dismissing the petitioner's application filed under Section 200 read with 156(3) Cr.P.C., seeking a direction to register the complaint.

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

The petitioner herein is the brother of one Meenakshi Sundaram, who was murdered on 13.05.2014 at Rajapalayam Town and on his death, a crime was registered by the Rajapalayam North Police Station for the offence under Sections 147, 148 and 302 IPC. Suspecting that the respondent herein and seven others have also involved in the above crime, the petitioner has sent petitions to various authorities to implicate them in the crime. In the meantime, on 18.10.2015, a private channel viz., Makkal TV, has been telecasted a programme by name "Kutram : 174". In the above programme, the respondent herein was interviewed and in that interview, he abused the petitioner and also criminally



intimidated him saying as follows:

"அவன் ஒரு மெண்டல்பய அவன் மடும் என் கையில் கிடைத்தால் மண்டைய உடைத்துவிடுவேன்."

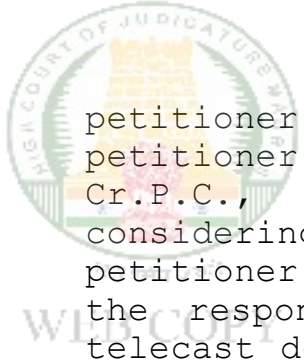
After seeing the above telecast, the petitioner has sent a complaint to the Rajapalayam North Police Station, alleging that the respondent committed offence under Sections 294(b), 506(i) IPC and also under Section 66 of the Information Technology Act. But the complaint was registered. Hence he filed a petition under Section 200 read with 156(3) Cr.P.C., before the Court below seeking a direction to the Sub Inspector of Police, Rajapalayam North Police Station to register a complaint against the respondent.

3.The Court below dismissed the above application stating that the Compact Disc, which contained the alleged interview given by the respondent is not clear and it is also not clear whether the person who has given the interview is the respondent and there is no material available to show that the voice contained in the above Compact Disc is that of the respondent and based on the Compact Disc, the Court cannot come to a conclusion that the respondent has committed the offence. Challenging the same the present Criminal Revision Case has been filed.

4.Heard Mr.Niranjan S.Kumar learned counsel for the petitioner and Mr.M.Ajmalkhan, learned Senior Counsel for the respondent.

5.The learned counsel appearing for the petitioner would contend that the petitioner has filed an application under Section 200 read with 156(3) Cr.P.C., The Court below considered the petition as a private complaint under Section 200 Cr.P.C., and while considering the petition under Section 200 Cr.P.C., the learned Magistrate did not follow the procedure contemplated under the above section. The Court below without taking sworn in statement of the petitioner and other witness namely, the person who has interviewed the respondent, has mechanically dismissed the petition. Apart from that, the interview of the respondent, telecasted in Makkal TV, clearly disclose that the respondent abused the petitioner and criminally intimidated him. Hence, he committed the offence as mentioned above. The Court below without considering all these materials aspects, dismissed the application, holding that the Compact Disc is not very clear and voice is also not matching with that of the respondent.

6.The learned Senior Counsel appearing for the respondent would submit that the petition was filed under Section 200 read with 156(3) Cr.P.C., and the prayer sought in the petition is only seeking a direction to the Sub Inspector of Police, Rajapalayam North Police Station to register the complaint. Even though the



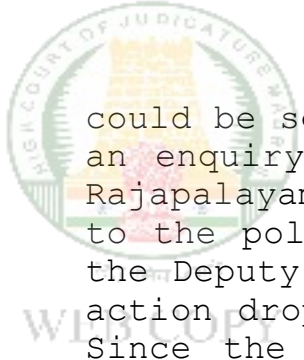
petitioner filed the petition under Section 200 Cr.P.C., the petitioner has only sought for a direction under Section 156(3) Cr.P.C., to register the complaint. The Court below after considering the complaint and the Compact Disc filed by the petitioner containing the alleged interview said to have given by the respondent, has come to the correct conclusion that the telecast does not show the person who has given the interview and there is no proof that the voice is that of the respondent. The learned Senior Counsel further submitted that based on the complaint given by the petitioner before the Rajapalayam Town Police Station, the Deputy Superintendent of Police, Rajapalayam Circle conducted an enquiry and after examination of the witnesses, closed the complaint stating that no material is available to proceed further. Since already the petitioner's application has been enquired into by the police and it was closed, the present petition seeking direction under Section 156 (3) Cr.P.C., is not maintainable. Apart from that, the learned Senior Counsel further submitted that even assuming that the allegation made by the petitioner is true, mere uttering words would not attract the ingredients of offence under Sections 294(b) and 506(i) IPC. It is also submitted that the petitioner filed a complaint based on the telecast made in a private TV channel and to prove the same, he filed a Compact Disc which is an electronic evidence and without getting a certificate in terms of Section 65 (B) of the Indian Evidence Act, the Compact Disc is not admissible in evidence and the Court below after considering the entire materials, has rightly dismissed the petition, therefore the order passed by the Court below does not require any interference.

7.I have considered the rival submissions made on either side and also perused the entire records.

8.A perusal of the record shows that the petitioner has filed an application before the Court below, seeking a direction to the Sub Inspector of Police, Rajapalayam North Police Station to register First Information Report against the respondent. Even though the petition has been filed under Section 200 read with 156 (3) Cr.P.C., the prayer sought for in the petition is only seeking a direction to register the First Information Report against the respondent and a perusal of the order shows that the Court below has considered the above application only under Section 156(3) Cr.P.C., and hence the contention of the learned counsel for the petitioner that the Court below has considered the application only under Section 200 Cr.P.C., is not correct. Hence, the argument advanced by the petitioner that the Court below did not follow the procedure contemplated under Section 200 Cr.P.C., cannot be countenanced.

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9.Apart from that, from the perusal of the records produced by the Deputy Superintendent of Police, Rajapalayam, it



could be seen that based on the complaint given by the petitioner, an enquiry was conducted by the Deputy Superintendent of Police, Rajapalayam Circle and the petitioner also sent the Compact Disc to the police during enquiry and considering all those materials, the Deputy Superintendent of Police has dropped the proceedings as action dropped, as no offence is made out against the respondent. Since the petitioner's complaint has already been enquired into and it was closed by the order dated 23.11.2015, as action dropped, the prayer sought for by the petitioner cannot be granted.

10.However, since the petitioner's complaint has already been enquired into by the police and it was also closed as action dropped, if the petitioner is having any grievance against the order passed by the police, it is always open to him to take appropriate proceedings in accordance with law.

11.With the above observation, this Criminal Revision Case is closed. The Deputy Superintendent of Police, Rajapalayam Circle is directed to furnish a copy of the order dated 23.11.2015, closing the complaint, to the petitioner immediately.

Sd/-

Assistant Registrar(AE)

/True Copy/

Sub Assistant Registrar

To

1.The Judicial Magistrate, Rajapalayam.

2.The Deputy superintendent of Police, Rajapalayam Circle.

+1cc to M/S.AJMAL ASSOCIATES, Advocate SR.No.75582

mj

MAS/MR-KKR/SAR3:13.09.2017:4P-4C

order made in
Cr1.R.C(MD) No.460 of 2016
 30.08.2017