



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.08.2017

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THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Crl.R.C (MD) .No.33 of 2013

Rani

.. Petitioner/Defacto
Complainant

-Vs-

The Inspector of Police,
District Crime Branch,
Nagercoil,
Kanyakumari District.

.. Respondent/Complainant

Prayer : Criminal Revision Case filed under Section 397 read with 401(1) of the Code of Criminal Procedure, to call for the records and to set aside the order passed in C.M.P.No.564 of 2010, dated 11.08.2012, passed by the learned Judicial Magistrate No.I, Nagercoil.

For Petitioner

: Mr.S.C.Herold Singh

For Respondent

: Mr.C.Mayilvahana Rajendran
Additional Public Prosecutor

O R D E R

Challenging the order dated 11.08.2012, passed in Cr.M.P.No.564 of 2010, by the learned Judicial Magistrate No.I, Nagercoil, this petition has been filed.

2. The petitioner has given a complaint against the Sub Inspector of Police, Kaliyakavilai Police Station, on the ground that the Sub Inspector of Police and Head Constable of the Kanyakumari Police Station entered into the petitioner's house and damaged the household articles and stolen gold jewels and had thrown all the damaged household articles into the nearby Well. Since no action has been taken on her complaint, the petitioner approached this Court by way of filing Crl.O.P.26959 of 2003. This Court directed the District Crime Branch, Kanyakumari District @ Nagercoil, and the Inspector of Police, to register a case against the accused, and directed them to file a final report in accordance with law. Thereafter, a crime has been registered in Cr.M.P.No.10502 of 2003, on 17.11.2003, for the offence under Sections 147, 448, 427, 379 and 277 IPC. After investigation, a final report has been filed by the District Crime Branch closing the



complaint as 'mistake of fact'. Thereafter, a protest petition was filed by the petitioner and that was also dismissed. Challenging the same, she filed a criminal revision in CrI.R.C.No.704 of 2006 and this Court by order, dated 08.02.2006, ordered a re-investigation by the Crime Branch CID, headed by a Deputy Superintendent of Police. Subsequently, the Superintendent of Police, CBCID, South Chennai, directed the Deputy Superintendent of Police, CBCID, Tirunelveli to look up to the investigation. The Deputy Superintendent of Police, conducted the investigation and recorded the statement of some witnesses under Section 164 Cr.P.C. before the learned Judicial Magistrate No.II, Kulithurai and after completion of investigation, final report has been filed closing the complaint as 'mistake of fact'. Thereafter, a protest petition was filed by the petitioner and the learned Judicial Magistrate No.I, Nagercoil dismissed the protest petition. Now, challenging the same, the present revision has been filed.

3. I have heard the learned counsel for the petitioner and the learned counsel appearing for the respondent and perused the records carefully.

4. The learned counsel appearing for the petitioner would contend that the entire investigation conducted by the Deputy Superintendent of Police, CBCID, is only an eyewash. The persons, who said to have been given a statement before the learned Judicial Magistrate under Section 164 Cr.P.C., do not belong to that area and they are all somehow related to one of the accused. Apart from that the neighbours of the petitioner have also given a statement under Section 164(3) Cr.P.C. They have clearly stated that only the accused persons have damaged the house and thrown the household articles into the Well. The seizure mahazar also shows that all the materials which were recovered from the Well belongs to the petitioner. But based on the statement of the witnesses given under Section 164 Cr.P.C. final report has been filed and the case was closed as 'mistake of fact'. He further submitted that CBCID did not conduct the investigation properly and in order to help the accused being police officials, closed the complaint as 'mistake of fact'. The learned Judicial Magistrate without considering the case in proper perspective, dismissed the petition.

5. Per contra, the learned Additional Public Prosecutor would contend that as per the order passed by this Court, re-investigation was conducted by the prime investigating agency i.e., CBCID, headed by the Deputy Superintendent of Police and recorded statement of witnesses and some of the witnesses have given statements before the learned Judicial Magistrate under Section 164 Cr.P.C. and it is stated that the defacto complainant's husband only damaged his house and threw the household articles into the Well to escape from the criminal case pending against him and based on the above statement and the other materials collected during the investigation, the complaint has



been closed as 'mistake of fact'. The learned Judicial Magistrate also applied his mind and considering the entire materials, accepted the final report and closed the complaint, and there is no illegality and irregularity in the order passed by the Court below.

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6. I have considered the rival submissions and the materials available on record.

7. Perusal of the records shows that as per the orders passed by this Court, re-investigation was conducted by the Deputy Superintendent of Police, CBCID, Tirunelveli and statements were recorded under Section 164 Cr.P.C. Eventhough, the neighbours of the defacto complainant, who gave statement before the police that the accused damaged the house and threw the damaged articles into the Well, whereas the four witnesses have admitted the fact before the learned Judicial Magistrate No.II, Kulithurai, they have given a statement under Section 164 Cr.P.C., that in respect of a previous case, pending against the defacto complainant's/petitioner's husband, who involved in theft and in order to enquire the petitioner's husband, the accused persons/police officials went to his house, and after they left the place, the defacto complainant and his family members damaged the household articles and put them into the Well, in order to escape from the criminal case filed against him. Apart from that there are lot of contradictions in the statement of witnesses given under Section 164 Cr.P.C., considering all these materials, final report has been filed closing the complaint as 'mistake of fact'.

8. So far as the contention of the learned counsel for the petitioner that the witnesses, who gave statement under Section 164 Cr.P.C. are closely related to one of the accused, there is no material available on record to show that they are closely related to the accused and no ground was made out to show that the investigation was not conducted properly. Considering all these materials, the Trial Court accepted the final report and dismissed the petition. I find no irregularity or illegality in the order passed by the Court below.

9. In the result, this Criminal Revision Case is dismissed.

Sd/-

Assistant Registrar(CSI)

/True Copy/

Sub-Assistant Registrar

To

<https://hcservicecourts.gov.in/cse> The Judicial Magistrate No.I,
Nagercoil.



2. The Inspector of Police,
District Crime Branch,
Nagercoil, Kanyakumari District.

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

Copy to: The Section Officer, Criminal Records Section,
Madurai Bench of Madras High Court,
Madurai

+1 CC TO Mr. S.C. Herold Singh , Advocate, Sr.No.74882

PJL
RL/6C/3P/JC/SAR1/20/12/2017

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28/08/2017