

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.03.2018

CORAM:

THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

Crl. R.C.No.307 of 2018
and
Crl.M.P.No.3662 of 2018

Pitchai Pillai ... Petitioner/Defacto Complainant

Vs

1.The Inspector of Police,
Keelapalur Police Station,
Keelapalur,
Ariyalur Taluk,
Ariyalur District. ... 1st Respondent/Complainant

2.Selvamurugan
3.Subramaniyan
4.Muruganandham
5.Ravi
6.Nagaraj
7.Chinnasamy
8.Duraiaraj
9.Natarajan
10.Muthusamy
11.Mookan
12.Kadan
13.Subramaniyan
14.Maruthamuthu

... Respondents 2 to 14/Accused Nos.1 to 13

PRAYER: Criminal Revision Case filed under Section 397 r/w 401 of Cr.P.C. Pleaded to call for the records in Crl.M.P.No.2237 of 2017 in C.C.No.10 of 2016 (Previously C.C.No.261 of 2008) on the file of Judicial Magistrate No.2 (FAC), Ariyalur, dated 26.09.2017.

For Petitioner : Mr.R.Sundar

For Respondents : Mr.G.Ramar (for R1)
Government Advocate (Crl. Side)

Mr.V.Elanchezhiyan

(for R2 to R7, R9 to R12 & R14)

ORDER

This criminal revision petition is preferred by the petitioner/defacto-complainant against the order passed by the learned Judicial Magistrate No.2 (FAC) Ariyalur, made in CrI.M.P.No.2237 of 2017 in C.C.No.10 of 2016 (previously C.C.No.261 of 2008) dated 26.09.2017 wherein the learned Judicial Magistrate dismissed the petition filed for reinvestigation under section 173(8) of Cr.P.C.

2.Brief case of the petitioner/defacto complainant:

The case of the petitioner is that a temple festival was held in their village on 10.07.2007 and an orchestra was planned for and some arrangements were on the way and during that time a wordy quarrel happened between this petitioner and 20-25 people of One Durairaj group, surrounded and attacked the petitioner with deadly weapons and the petitioner and his men were chased by that Durairaj group using filthy language and looted one mobile phone and Rs.2000/- from the petitioner and his wife also sustained bloody wound on her face. The petitioner filed the complaint before the respondent police. But the respondent police failed to act on the complaint. Immediately the petitioner sent a detailed complaint to the 1st respondent Police and forwarded the copies to the higher officials. The petitioner approached this Court by invoking section 482 of Cr.P.C. for registration of the F.I.R. in CrI.O.P.No.22105 of 2007. In spite of the direction issued by this Court, the respondent police failed to obey the order. Hence, the petitioner issued a legal notice and filed Contempt Petition in Cont.P.No.441 of 2008. After knowing the same, the respondent police registered a case in Cr.No.22 of 2008 under sections 147, 294(b), 323 and 506(i) of IPC. Finally without any proper investigation the respondent police filed the final report against 13 persons under sections 147, 506(i), 323 and 294(b) of IPC on 26.01.2008.

3.The learned Judicial Magistrate took cognizance of the offence and issued summons to the respondent/accused in C.C.No.261 of 2008. Later the above C.C. Number has been changed into C.C.No.10 of 2016. The petitioner filed application for re-investigation under section 173(8) of Cr.P.C in CrI.M.P.No.2237 of 2017.

4.The learned Judicial Magistrate, after appreciating the contention raised by the petitioner, dismiss the petition on 26.11.2017. Aggrieved over the same, the petitioner filed this criminal revision challenging the order.

5.The learned counsel for the petitioner submits that the learned Judge failed to note that right from the day one of

occurrence, the 1st respondent police is on bias attitude and they openly extended their support to the respondents 2 to 14/accused persons.

6.The learned counsel for the petitioner submits that the learned Judge failed to note that even after issuance of direction by this Court, 1st respondent police has not registered a case on the petitioner's complaint, after filing contempt application alone, a case came to be registered by him.

7.The learned counsel for the petitioner submits that the learned Judge failed to note that the petitioner herein has categorically stated in his petition that instead of conducting free and fair investigation, the 1st respondent has simply inserted some of the sections namely 147, 294(b), 323, and 506 (ii) of IPC, though the acts of accused attracted the sections 120-A, 141, 144, 307, 309, 319, 322, 327, 379, 390 of I.P.C.

8.The learned counsel for the petitioner submits that the learned Judge cited a reason that petitioner herein has not pressed similar application in Crl.M.P.No.5005 of 2010 and the same is not fatal to de-facto complainant, since at that point of time, counsel of petitioner herein advised that permission to conduct the prosecution case may be obtained and on that basis, petitioner herein has consented for not press the said interlocutory application. More over the said Crl.M.P.No.5050 of 2010 has not been decided on merits.

9.The learned counsel for the petitioner cited the citations supported for his submissions:

- 1) (2017) 4 SCC 177 (Amrutbhai Shambhubhai Patel v. Sumanbhai Kantibhai Patel and others)
- 2) (2013) 5 SCC 762 (Vijay Tyagi v. Irshad Ali Alias Deepak and Others)

10.The learned counsels for the respondents supported the order passed by the learned Judicial Magistrate and opposed the contentions of the appellant.

11.I heard Mr.R.Sundar, learned counsel for the appellant, Mr.G.Ramar, learned Government Advocate (Criminal Side) for the 1st respondent and Mr.V.Elanhezhiyan, learned counsel for the respondents 2 to 7, 9 to 12 and 14. I have carefully examined the records and the contentions of the counsels.

12.The prime contention of the petitioner is that his complaint was not properly investigated and the final report

filed by the respondent police ignores the original complaint preferred by him.

13.This Court carefully examined the final report filed by the respondent police. Ultimately the complaint lodged by the petitioner should be supported by medical records showing the injuries sustained by the petitioner and his wife. Unfortunately, the petitioner failed to file the medical records supporting his case of attack.

14.The respondent police filed the final report against 13 persons on the basis of the complaint lodged by the petitioner. The adding of section 307 of IPC as pointed by the petitioner has not taken into consideration by the respondent police since there is no medical record.

15.Further it is to be pointed out that the learned Judicial Magistrate has taken cognizance of the offence against the final report and the respondent/accused were appearing before the Court from the year 2008.

16.The appreciation of the learned Judicial Magistrate cannot be ignored for the simple reason that act of the petitioner can be viewed from the case records where he is the only person actually dragging the proceedings by filing vexatious applications.

17.Therefore, this Court finds no merit in the Criminal Revision and the order passed by the learned Judicial Magistrate No.2 (FAC), Ariyalur, dated 26.09.2017 in CrI.M.P.No.2237 of 2017 in C.C.No.10 of 2016 is confirmed. The learned Judicial Magistrate is hereby directed to dispose of the C.C.No.10 of 2016 within a period of two months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

vs

To

1. The Judicial Magistrate No.2 (FAC), Ariyalur.
2. The Inspector of Police,
Keelapalur Police Station,
Keelapalur,
Ariyalur Taluk,
Ariyalur District.
3. The Public Prosecutor, High Court, Madras - 104.

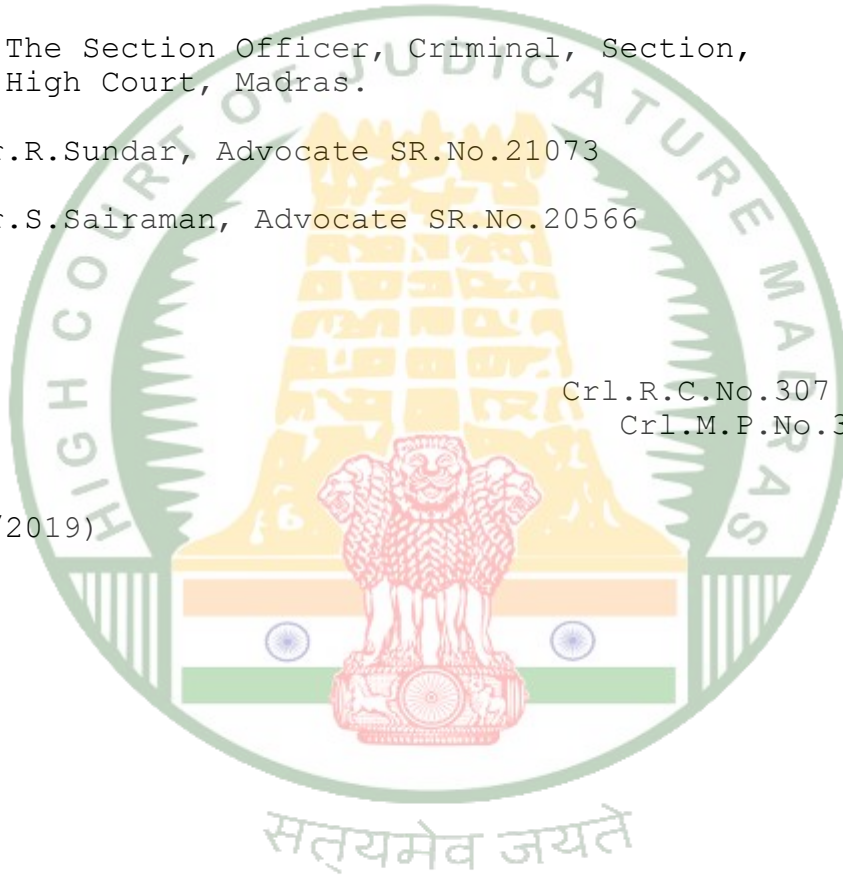
Copy To : The Section Officer, Criminal, Section,
High Court, Madras.

+1cc to Mr.R.Sundar, Advocate SR.No.21073

+1cc to Mr.S.Sairaman, Advocate SR.No.20566

Crl.R.C.No.307 of 2018 and
Crl.M.P.No.3662 of 2018

SJ(CO)
GMY(29/01/2019)



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