

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

Crl.R.C.No.780 of 2011

M.Jayakumar

...Petitioner/Complainant

...Vs...

1.Arokiyasamy

2.Rani @ Mitla Rani

...Respondent/Accused 1&2

PRAYER: Criminal Revision Petition filed under Section 397 read with 401 of the Criminal Procedure Code, to call for the records pertaining to the case in C.M.P.No.134 of 2011 on the file of the Principal District Munsiff-cum-Judicial Magistrate, Uthiramerur, Kancheepuram District.

For Petitioner : Mr.A.G.Rajan

For Respondent : Mr.M.Selvalingam

For M/s.T.Fenn Walter Associates

O R D E R

This Criminal Revision has been filed under Section 397 read with 401 of the Criminal Procedure Code, to call for the records pertaining to the case in C.M.P.No.134 of 2011 on the file of the Principal District Munsiff-cum-Judicial Magistrate, Uthiramerur, Kancheepuram District.

2. Heard both sides.

3. The learned counsel for the petitioner has submitted that the private complaint was dismissed by the Judicial Magistrate, Uthiramerur, Kancheepuram District not based upon the evidence adduced in the private complaint, but based on the closure report filed by the police in Crime No. 431 of 2010.

4. Per contra, the learned counsel for the respondent has drawn my attention to the complaint given by the complainant herein to the State Human Rights Commission, dated 25.02.2010, and also contended that in the said complaint what was stated is 'தகாத வார்த்தைகளால்' and there was no specific mentioning of the date.

5. After hearing both the parties and after perusing the records and also the deposition of P.W.1 and P.W.2, father and son before the learned Judicial Magistrate, Uttiramerur, I find that the order passed by the Judicial Magistrate is without considering the evidence on record. However, it appears that the Magistrate has misdirected himself and dismissed the petition based upon the negative report filed by the police holding that no prima facie case has been made out under Section 294(b) of I.P.C.

6. Be that as it may. After going through the evidence of P.W.1 and P.W.2 in the private complaint in C.M.P.No.134 of 2011 the order passed by the Judicial Magistrate does not appear to be acceptable based upon the evidence.

7. In this view of the matter, the order is set aside and the matter is remitted back to the Judicial Magistrate, Uthiramerur and C.M.P.No.134 of 2011 is restored to file. The learned Judicial Magistrate, Uthiramerur is directed to dispose of in C.M.P.No.134 of 2011 in accordance with law and after providing opportunity to the petitioner to adduce any evidence on his behalf, within a period of twelve weeks from the date of receipt of a copy of this order.

8. With the above directions, this Criminal Revision Petition is allowed.

Sd/-

Assistant Registrar (CS-V)

// True Copy //

Sub Assistant Registrar

nvi

To

The Principal District Munsiff-cum-Judicial Magistrate,
Uthiramerur, Kancheepuram District.

+1cc to Mr.M/s.T.Fenn Walter Associates, Advocate SR.No.61436
+1cc to Mr.A.G.Rajan, Advocate SR.No.61227

Cr1.R.C.No.780 of 2011

NM(CO)

RMP (27/09/2018)