

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 12.07.2018
Pronounced on : 10.08.2018

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.24000 of 2011
and
M.P.Nos.1 & 2 of 2011

N.Janardhanan,
S/o.Navaneetham. ... Petitioner/Complainant

Vs.

1.J.Anbalagan,
Inspector of Police,
Thiruvudai Marudur Police Station,
Thanjavur District.

2.R.Rajaseharan,
Sub-Inspector of Police,
Traffic Police Station,
Mayiladuthurai.

3.T.V.Anbalagan,
V.O.C. Street, Koranad,
Mayiladuthurai.

4.S.Anbuselvan,
Sub-Inspector of Police,
Thalainayiru Police Station,
Vedaranyam,
Nagapattinam District. ... Respondents/Accused

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to set aside the order dated 10.06.2011 passed in Cr.R.P.No.9 of 2008 on the file of the Principal Sessions Court, Nagapattinam as against the order dated 25.02.2008, 14.03.2008, 20.03.2008 in P.R.C.No.37 of 2003 on the file of the Judicial Magistrate Court No.1, Mayiladuthurai.

For Petitioner : Mr.R.Karunakaran
For R1, R2 & R4 : Mr.A.V.Arun
For R3 : No appearance

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O R D E R

This Criminal Original Petition has been filed against the order dated 10.06.2011 made in Cr.R.P.No.9 of 2008 on the file of the Principal Sessions Court, Nagapattinam as against the docket orders dated 25.02.2008, 14.03.2008, 20.03.2008 in P.R.C.No.37 of 2003 pending on the file of the Judicial Magistrate Court No.1, Mayiladuthurai.

2.The petitioner is the complainant, who had filed a private complaint against the respondents, who were working in the Police Department alleging various offences against them. Based on the private complaint the learned Judicial Magistrate No.1, Mayiladuthurai had conducted an enquiry, examined the witnesses and after recoding the evidences had dismissed the private complaint on the ground that no case has been made out. Thereafter, Crl.O.P.No.866 of 2003 has been filed before the High Court of Madras, this Court vide order dated 24.09.2003 has set aside the order of the learned Judicial Magistrate No.1, Mayiladuthurai. On the orders of this Court, the learned Judicial Magistrate No.1, Mayiladuthurai took cognizance of the offences under Sections 120 (B), 167, 193, 195, 196, 205, 209, 211, 307, 341, 344, 357, 363, 469, 500, 506 (ii) of the Indian Penal Code and under Section 3(1) of the Tamil Nadu Property Prevention of Damage and Loss Act r/w 109 of the Indian Penal code and had committed the case in P.R.C.No.37 of 2003 to the Sessions Court.

3.The grievances of the petitioner is that during committal Non-Bailable Warrant was issued against the respondents/accused. Against the same, the respondents/accused moved for Anticipatory Bail before this Court and this Court refused the Anticipatory Bail. Thereafter, the Non-Bailable Warrant was recalled by the learned Judicial Magistrate No.1, Mayiladuthurai, inspite of objection raised by the petitioner.

4.The contention of the learned counsel for the petitioner is that before committal the respondents/accused, who are accused in P.R.C. Case have not been arrested and without getting bail the respondents/accused cannot committed to Sessions Court and hence, prayed for setting aside the committal.

5.The learned counsel appearing for the respondent Nos.1, 2 and 4 submitted that this Court vide order dated 24.09.2003 in Crl.R.C.No.866 of 2003 had directed the

learned Judicial Magistrate to take cognizance of the offence and the learned Judicial Magistrate also issued Non-Bailable Warrant against the respondents/accused. Subsequently, Non-Bailable Warrant was recalled on the surrender of the respondents/accused. Thus, the surrender and recall of the respondents/accused is pursuant to the order of this Court dated 12.08.2004 in CrI.O.P.No.28418 of 2004, wherein this Court had directed the accused to surrender before the Trial Court and file application for bail.

6.As per the order of his Court, the learned Judicial Magistrate gave notice to the petitioner and passed order on the petition of the respondents on merits on the same day on hearing the both sides. Further, an undertaking bond was obtained from the respondents to appear before the Court in future dates. Thereafter, the case has been committed and the case is now pending before the District and Sessions Court, Nagapattinam in P.R.C.No.37 of 2003. Aggrieved by the grant of bail by the learned Judicial Magistrate, the petitioner filed this Criminal Original petition.

7.The learned counsel for the petitioner contended that the respondents have not arrested and remanded before committal, against which the CrI.R.C.No.9 of 2008 was preferred by the petitioner and the CrI.R.C.No.9 of 2008 came to be dismissed by the learned Sessions Judge vide order dated 10.06.2011, against which the above Criminal Original Petition has been filed by the petitioner.

8.On a perusal of this Criminal Original Petition, it is seen that the petitioner for the same prayer had approached the Sessions Court in CrI.R.C.No.9 of 2008 which came to be dismissed by order 10.06.2011 against which this Criminal Original Petition is filed amounts to second revision.

9.The Hon'ble Supreme Court of India in the case of Rajathi Vs. C.Ganesan reported in (1999) 6 SCC 326, wherein it has been held that the bar of second revision after dismissal of first one by the Sessions Court -- Inherent powers of High Court cannot be utilised as a substitute for second revision.

10.On the contentions of the petitioner and the respondents and on a perusal of the documents it is found that no new ground and special circumstances warrants permitting the above Criminal original Petition. In view of this petition being in the nature of the second revision, which is not permissible in law.

11.Thus, the Criminal Original Petition is dismissed. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(Cs VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Principal Sessions Judge,
Nagapattinam.

2.The Judicial Magistrate No.1,
Mayiladuthurai.

3.The Public Prosecutor,
High Court, Madras.

+1 CC TO MR.P.S.THILAK PASUMBADIYAR Advocate SR.NO. 55210

ORDER IN

Cr1.O.P.No.24000 of 2011

ASK(31/08/2018)



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