

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.07.2018

C O R A M

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

Crl.O.P.No.7390 of 2011

and

M.P.Nos.1 and 2 of 2011

1. A.Manirathnam
2. K.Varadharajan

... Petitioners

Vs.

P. Ramar
Revenue Divisional Officer cum
Sub Divisional Magistrate
Gobichettipalayam
Erode District.

... Respondent

PRAYER: Criminal Original Petition filed under Sections 482 and 483 of Cr.P.C, to call for the records in P.R.C.No.1 of 2011 on the file of the Chief Judicial Magistrate, Erode and quash the Proceedings therein.

For Petitioners : Mr.C.S.Dhanasekaran

For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate

ORDER

The petitioners are accused 1 and 2 in P.R.C.No.1 of 2011 on the file of the Chief Judicial Magistrate, Erode.

2. The respondent/complainant Mr.P.Ramar, Revenue Divisional Officer cum Sub Divisional Magistrate, Gobichettipalayam, Erode District, filed a private complaint under Section 200 of the Criminal Procedure Code, against the present petitioners for the alleged offences punishable under Sections 166 and 304 (A) IPC. The learned Chief Judicial Magistrate, Erode, examined the complainant and other witnesses and took cognizance of the offences punishable under Section 302 and 201 of IPC in P.R.C.No.1 of 2011 and the case is still pending before the said

Court. The petitioners in the instant petition had contented that though the respondent/complainant had mentioned that the accused committed an offence under Section 304(A) of IPC, the learned Chief Judicial Magistrate, Erode is wrong in taking cognizance of the offences under Sections 302 and 201 IPC.

3. A perusal of the private complaint given by the District Revenue Officer, shows that the deceased Nadu Karuppasamy, was taken to Sreerangarayan hills by the petitioners herein, who were the Inspector of Police, Sathiyamangalam Police Station and the Head Constable of Police No.1062 attached to Sathiyamangalam Police Station, on 05.12.2002 at about 09.00 p.m., in connection with Crime No.534/2002 of Sathiyamangalam Police Station for the offences under Sections 454 and 380 IPC. According to the complainant, the deceased while waking on the hills slipped and sustained injuries and that the respondent did not give treatment immediately to the deceased Nadu Karuppasamy, which resulted in the ultimate death of the said Nadu Karuppasamy.

4. Mr.C.S.Dhanasekaran, the learned counsel appearing for the petitioner would contend that in this case Tamil Nadu State Human Rights Commission conducted a full fledged enquiry in case No.7300 of 2002 and passed a detailed order dated 16.09.2003, wherein it is clearly held that the petitioners have not committed any offence. He would therefore, contend that the entire proceedings in P.R.C.No.1 of 2011 is liable to be quashed. It is also his contention that the learned Chief Judicial Magistrate cannot go beyond the allegations mentioned in the private complaint especially, when there are no ingredients to attract the provisions of Sections 302 and 201 of IPC.

5. A perusal of the orders passed by the learned Chief Judicial Magistrate, Erode shows that he has analyzed the evidence adduced on the side of the respondent/complainant and also the doctor, who did the postmortem on the body of the deceased Nadu Karuppasamy, and had come to the conclusion that there are prima facie evidence against the petitioners/ accused that they have committed the offences punishable under Sections 302 and 201 of IPC. A perusal of all the documents would also reveal that there are materials available on record to proceed against the present petitioners and it is for the Sessions Judge to consider all the relevant records before framing charges against the petitioners.

6. At this stage, this Court cannot go into the truth or otherwise of the allegations mentioned in the private complaint and the evidence adduced on the side of the complainant. However, the learned Chief Judicial Magistrate, Erode is directed to commit the P.R.C.No.1 of 2011 to the Court of

Sessions, within a period of two months from the date of receipt of a copy of this order.

7. With the above observations, the petition is dismissed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

mkn/dna

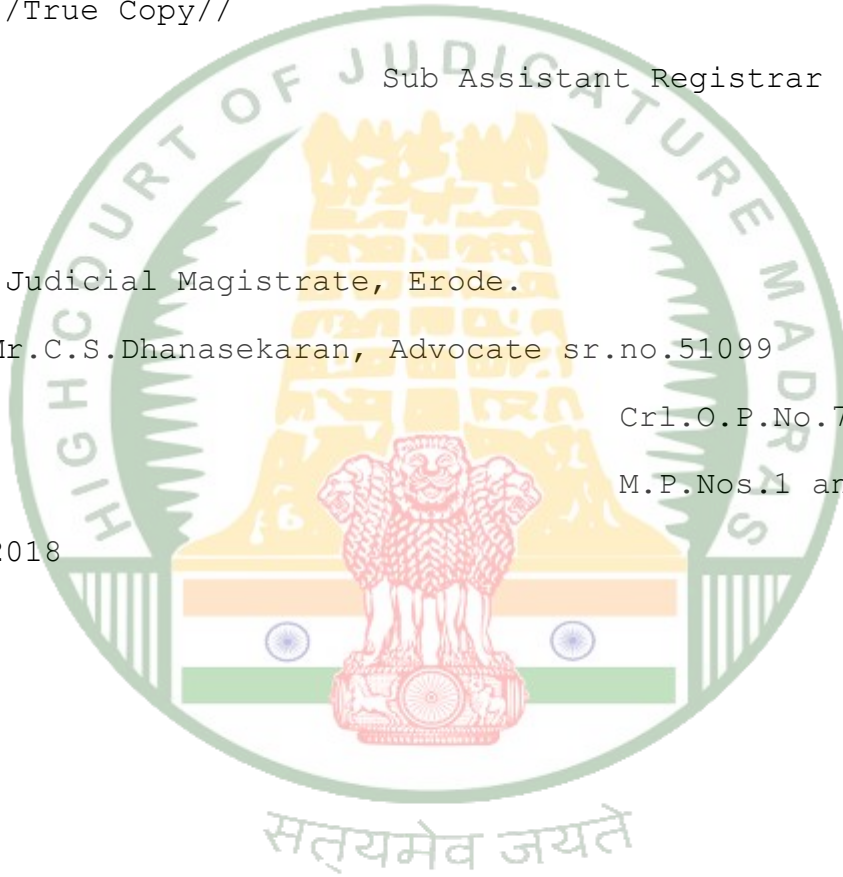
To

The Chief Judicial Magistrate, Erode.

+1cc to Mr.C.S.Dhanasekaran, Advocate sr.no.51099

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