

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated : 23.11.2018

CORAM:
THE HONOURABLE MR. JUSTICE V.PARTHIBAN

Crl.R.C.No.1325 of 2018 and
Crl.M.P.No.15594 of 2018

Harish

... Petitioner

Vs.

1.State Rep. by
Inspector of Police,
Sipcot Police Station,
Hosur.

2.Lokesh

... Respondents

PRAYER : The Criminal Revision filed under Section 397 read with 401 of Code of Criminal Procedure against the order passed by the learned Judicial Magistrate No.2, Hosur in Crl.M.P.No.1235 of 2015 dated 17.02.2017 in C.C.No.143 of 2013 pending trial before the learned Judicial Magistrate No.2, Hosur.

For Petitioner : Mr.P.Kumaresan

For Respondents : Mr.G.Harihara Arun Somasankar,
Government Advocate(Crl.Side) for R1

O R D E R

The present revision case has been filed against the order passed by the learned Judicial Magistrate No.2, Hosur in Crl.M.P.No.1235 of 2015 dated 17.02.2017 in C.C.No.143 of 2013.

2. The petitioner/defacto complainant had preferred a complaint to the first respondent against the second respondent herein and on the basis of the complaint, a case was registered for the offence under Sections 341, 294 (b), 326 and 506(II) of I.P.C. After completion of the chief examination of P.W.1 viz., the petitioner herein, on behalf of the prosecution, a petition was filed under Section 323 read with 216 of Cr.P.C to alter the charge as 341, 294(b), 326 and 307 of I.P.C. as against the second respondent herein.

3. The Trial Court, after hearing the parties, dismissed the petition filed on behalf of the prosecution on 17.02.2017, stating that there was no necessity to alter the charges and the grounds on which such petition was filed, were without any merits and substance.

4. The learned counsel for the petitioner would submit that the prosecution ought to have filed the present revision, but, unfortunately, they had not chosen to file a revision. Therefore, the petitioner is before this Court. He would also submit that the Trial Court had heard and dismissed the petition without properly appreciating the facts and circumstances of the case.

5. This Court has perused the materials and the order passed by the learned Trial Court. The order passed by the Trial Court, rejecting the petition for altering the charge appears to be well founded and does not require any interference from this Court. It appears that the prosecution wanted more stringent case against the second respondent herein by exaggerating the incident that gave rise to the original complaint at the instance of the petitioner herein. Therefore, the Trial Court rightly came to the conclusion that there was no truth in the allegation that the petitioner was threatened with the intention of fatal injury by the second respondent.

6. Since the Trial Court has given a finding of fact on the basis of the materials placed for consideration, this Court does not think that such finding of the Trial Court can be interfered with. This Court also does not see any infirmity in the conclusion reached by the Trial Court and this Court finds that the revision petition is devoid of merits and substance and therefore, the same is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

gsk

To

1.The learned Judicial Magistrate No.2,Hosur.

2.The Inspector of Police,
Sipcot Police Station,Hosur.

3.The Public Prosecutor, High Court, Madras

+1cc to Mr.A.Balamurugan, Advocate,S.R.No. 79867

Cr1.R.C.No.1325 of 2018

CNR (CO)

rrs 02/01/2019