



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 23.10.2018

CORAM:

THE HONOURABLE DR.JUSTICE **G. JAYACHANDRAN**

Crl.R.C(MD)No.157 of 2018

Sivakumar

: Petitioner/De facto complainant

Vs.

1. The State rep. by
The Inspector of Police,
Thenkarai Police Station,
Theni District.
In Crime No.210 of 2017

:1st Respondent/Complainant

2. Sekar
3. Veluchamy
4. Duraipandi

:2nd to 4th Respondents/Accused

PRAYER: Revision is filed under Section 397 read with Section 401 of the Code of Criminal Procedure, to call for the records in S.T.C.No.4894 of 2017 dated 14.12.2017 on the file of the Judicial Magistrate, Periyakulam and set aside the same and to enhance punishment of the accused and allow the revision petition.

For Petitioner : Mr.M.Sankar

For R-1 : Mr.A.Robinson,
Government Advocate (Crl.side)

For R-2 to R-4 : Mr.R.Shankar Ganesh

ORDER

This criminal revision case is filed seeking to set aside the order passed in S.T.C.No.4894 of 2017 dated 14.12.2017 on the file of learned Judicial Magistrate, Periyakulam.

2.Heard the learned counsel appearing for the petitioner, learned Government Advocate (Crl.Side) appearing for the first respondent and the learned counsel appearing for the respondents 2 to 4.

3.The revision petitioner is the de facto complainant in S.T.C.No.4894 of 2017. In his complaint, he has alleged that the accused persons A-1 to A-3 in order to forcibly evict the de facto complainant from the house, caused damage to the property, used abusive language and also threatened him.

4.Based on the complaint, the respondent police has registered the First Information Report in Crime No.210 of 2017, dated 24.03.2017 and after investigation, they have filed a final report for the offence under Sections 294(b), 323 and 506(i) IPC, but conspicuously no offence under TNPPDL Act has been included in the final report. When the records relied by the prosecution along with final report were served by the respondent police, they have



pleaded guilty and the learned Magistrate imposed the fine of Rs.250/- for the offence under Section 294(b) IPC, Rs.500/- for the offence under Section 323 IPC and Rs.750/- for the offence under Section 506(i) IPC in default to undergo one week simple imprisonment. Thus, the criminal prosecution has come to end without trial and without the knowledge of the de facto complainant.

5.Now, the present criminal revision case is filed stating that though there was enough material to prosecute the respondents 2 to 3 under Section 4 of TNPPDL Act and Section 307 IPC, the respondent police had filed the final report omitting these two Sections and the accused have conveniently pleaded guilty and gone free by paying fine.

6.After hearing the learned counsel and perused the records, this Court is of the opinion that the order passed by the learned Judicial Magistrate is liable to be set aside, since there is enough material to prosecute the accused persons for the offence under Section 4 of TNPPDL Act.

7.Hence, the trial Court shall cause notice to the de facto complainant and if any protest petition is filed, the same shall be taken into consideration and dispose of the case after conducting full trial.

8.With the above observation, this criminal revision case is allowed.

Sd/-

Assistant Registrar(ADI)

/True Copy/

Sub Assistant Registrar(CS-I)

To

1. The Judicial Magistrate, Periyakulam.

2. The Inspector of Police,
Thenkarai Police Station,
Theni District.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.R.Shankar Ganesh, Advocate Sr.No.91340

+1cc to Mr.M.Sankar, Advocate Sr.No.91237

CP

KM-VB/SKN/SAR1/11.12.2018/2P/6C