



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.01.2018

CORAM:

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

Cr1.R.C. (MD) .No.9 of 2018

and

Cr1.M.P. (MD) Nos.136 and 137 of 2018

M.S.Sri Vaishnavi Marketers,

Represented by its Partner

V.Parasuraman

: Petitioner / Complainant

Vs.

A.Ponraj,

Proprietor,

M/s.Chitra Enterprises,

D.No.22/14, West Car Street,

Ettayapuram,

Tuticorin District.

: Respondent / Accused

Prayer:- Revision is filed under Sections 397 and 401 of the Code of Criminal Procedure praying to call for the records and set aside the order dated 19.07.2017 passed in Cr.M.P.No.5931 of 2016 in S.T.C.No.54 of 2016 on the file of the learned Judicial Magistrate No.IV, Tirunelveli.

For Petitioner : Mr.T.S.R.Venkataramana

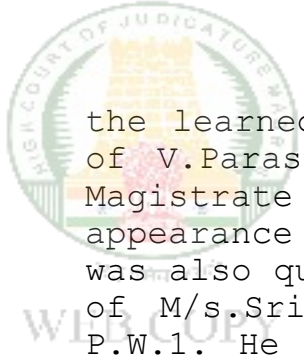
For Respondent : Mr.J.Jeyakumaran

O R D E R

The short point that falls for consideration in this revision is that whether the Trial Court can permit the complainant to amend his name?

2. For the sake of convenience, the parties will be referred to as the complainant and the accused.

<https://hcservices.ecourts.gov.in/Myservices> M.S.Sri Vaishnavi Marketers, represented by its Partner V.Parasuraman initiated a prosecution in S.T.C.No.54 of 2016 under Section 138 of the Negotiable Instruments Act against Ponraj before

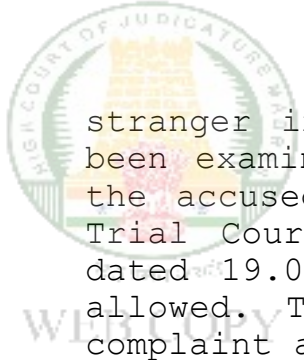


the learned Judicial Magistrate No.IV, Tirunelveli. Sworn statement of V.Parasuraman, S/o.A.M.Venkatasamy was recorded by the learned Magistrate and process was issued. The accused also entered appearance and he was furnished with a copy of the complaint and he was also questioned about the accusation, which he denied. On behalf of M/s.Sri Vaishnavi Marketers, Mr.V.Parasuraman was examined as P.W.1. He was also cross-examined by the accused. Thereafter, the complainant found that there was an error in the complaint inasmuch as in the cause title of the complaint, the name has been given as 'V.Parasuram, S/o.A.M.Venkatasamy' instead of 'V.Parasuraman, S/o.A.M.Venkatasamy'. For rectifying this typographical error, the complainant filed Cr.M.P.No.5931 of 2016 in S.T.C.No.54 of 2016, which has been dismissed by the trial Court by the impugned order dated 19.07.2017, aggrieved by which, the complainant has filed the present revision with a delay of 43 days, which has been condoned by this Court in CrI.M.P.(MD)No.11342 of 2017.

4. Heard the learned counsel for the complainant and the learned counsel for the accused.

5. It is seen that the Trial Court has placed strong reliance upon the judgment of a learned Single Judge of this Court in **K.Velmurugan v. N.Ganesan** reported in **2010(3) MWN (Cr.) DCC 23** for dismissing the petition filed by the complainant.

6. In **Velmurugan's** case, the complainant wanted to amend the very cheque number in the complaint, which went into the root of the prosecution. Therefore, in those circumstances, this Court denied permission. Of course, in **A.Vinayagam v. Dr.Subash Chandran** reported in **2000(1) L.W.(CrI.) 460**, a Division Bench of this Court has stated that the complainant should suffer for filing a defective complaint. The question in **A.Vinayagam's** case was whether the Court can return a complaint to the party for rectification of defects. In those circumstances, the Division Bench held that when once a complaint is filed in the Court, it becomes a property of the Court and the same cannot be returned to the complainant for any rectification. In this case, the complainant is not asking for return of the complaint. He only seeks permission for making a typographical correction in the name. The learned Trial Judge has held that the complainant has not produced any material to show that he is not Parasuram, but Parasuraman. Even, in the evidence recorded by the Trial Court, P.W.1 has given his name as Parasuraman. In the opinion of this Court, though there is no specific provision under the Code of Criminal Procedure unlike the Code of Civil Procedure for carrying out such amendments, yet, it will not be illegal for a criminal Court to permit such clerical amendments as long as it does not alter the substratum of the case or cause prejudice to the other side. Every Criminal Court has got certain amount of inherent power to manage its records, as held by the Supreme Court in **State of M.P. v. Awadh Kishore Gupta [2004(1) SCC 691]**. In this case, no prejudice will be caused to the accused, if the name is amended from Parasuram to Parasuraman. The complainant is not trying to substitute a



stranger into the proceedings inasmuch as Parasuraman has already been examined as a witness and he has also been cross-examined by the accused. In such view of the matter, the order passed by the Trial Court deserves to be set aside and accordingly, the order dated 19.07.2017 is set aside and the Criminal Revision Case is allowed. The Trial Court is directed to amend the name in the complaint as 'Parasuraman' instead of 'Parasuram'. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AE)

/True Copy/

Sub Assistant Registrar

To

The Judicial Magistrate No.IV,
Tirunelveli.

Sml

MV:SV-MMS:SAR1:25/01/2018/3P/2C

Order made in

Cr1.R.C. (MD) .No.9 of 2018

Dated: 08.01.2018