



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.07.2018

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THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.193 of 2018

and

Crl.M.P.(MD)No.2501 of 2018

Senthilkumar

.. Petitioner / Accused

Vs.

K.Murugan

.. Respondent/Complainant

Prayer : This revision case is filed under Sections 397 and 401 of Cr.P.C., to call for the records of the order of taking cognizance of the case in S.T.C.No.34/2013, dated 13.05.2013 passed by the learned Judicial Magistrate No.IV, Madurai and set aside the same as illegal.

For Petitioner

: Mr.J.Selvam

For Respondent

: Mr.C.Mayilvahana Rajendran

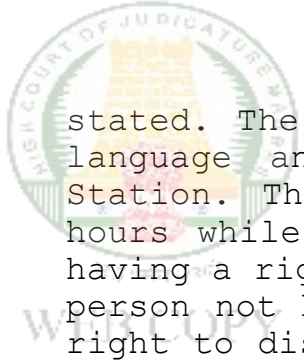
ORDER

Heard Mr.J.Selvam, learned counsel appearing for the petitioner and Mr.C.Mayilvahana Rajendran, learned counsel appearing for the respondent.

2.This revision case has been filed against the order dated 13.05.2013 in S.T.C.No.34/2013, passed by the learned Judicial Magistrate No.IV, Madurai.

3.The case of the Complainant/respondent is that on 26.12.2012 at 06.00 p.m, when the respondent appeared before Keeraithurai Police Station on behalf of his client, namely, Palpandi, he was restrained by the petitioner, who was on duty and the petitioner scolded the respondent by using filthy language and asked him not to enter the police station. This was witnessed by advocates, namely, S.Rajaguru, M.vijayan and by one another person, whose name is Ramar. The complainant preferred a complaint before the Commissioner of Police, Madurai City and the same was refused. Thereafter, the complainant has lodged a complaint through Registered Post on 08.01.2013 and also filed a private complaint under Section 200 Cr.P.C against the petitioner before the learned Judicial Magistrate No.IV, Madurai, and it was taken up on file as S.T.C.No.34 of 2013.

4.On the side of the petitioner, it is stated that for what purpose the complainant came to the station is not specifically



stated. The allegation against the petitioner is that he used filthy language and prevented the complainant to enter into the Police Station. The place of occurrence is his work place. During working hours while he was discharging his official duty, the petitioner is having a right to disperse the assembly. Under Section 179 of I.P.C. a person not below the rank of the Sub Inspector of Police is having a right to disperse an unlawful assembly and that there is no necessity for a breach of public peace. It is sufficient that there is a likelihood of breach of public peace.

5.It is further stated that under Section 132 of Cr.P.C., no action can be taken against the petitioner without sanction. The Judicial Magistrate has not considered Sections 131 and 132 and took cognizance of the offence, under Section 264 Cr.P.C. It is further stated that under Section 179 of I.P.C., sanction is necessary for taking action against the petitioner, the judgment of the Calcutta High Court reported in 1984 CRI.L.J.1334 in *Narayan Chandra Pramanik V. Ananda Mandal and another* and another judgment of the Allahabad High Court reported in 1992 CRI.L.J.2216 in *Ram Adhar Yadav V. Ramchandra Misra and another* are cited.

6.On the side of the respondent, it is stated that the petitioner has abused the process of law, and he has no right to prevent an Advocate, who was entering a Police Station. Moreover, the petitioner has abused the advocate in filthy language and hence, prayed the petition has to be dismissed.

7.Records Perused.

8.The petitioner is a police official and the same is not denied by the respondent. It is stated that the petitioner abused the complainant in filthy language. It is stated that the petitioner was discharging his official duty at his work place, at that point of time. Hence, sanction is necessary under Section 187(1) of Cr.P.C. Considering the above facts and circumstances of the case, this Court is inclined to allow the Criminal Revision Case. Accordingly, this Criminal Revision Case is allowed and the order taking in S.T.C.No.34 of 2013 on the file of the learned Judicial Magistrate No.IV, Madurai, is set aside. Consequently, the connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar(CS III)

/True copy/

Sub Assistant Registrar(CS III)



To

1.The learned Judicial Magistrate No.IV,
Madurai

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

3.The Section Officer,
Criminal Section, (2COPIES)
Madurai Bench of Madras High Court,
Madurai.

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