

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 17.01.2018****CORAM:****THE HONOURABLE MR. JUSTICE P.N. PRAKASH****Cr1.R.C. (MD) No.418 of 2017**

C.Sevandhammal ... Petitioner / Complainant / Petitioner

vs.

1. Mohankumar (as on 03.02.2016)
Deputy Superintendent of Police
Vedasandur Range, Vedasandur
2. Yesu Rajasekar (as on 03.02.2016)
The Inspector of Police
Eriodu Police Station
Dindigul District ... Respondents / Accused / Respondents

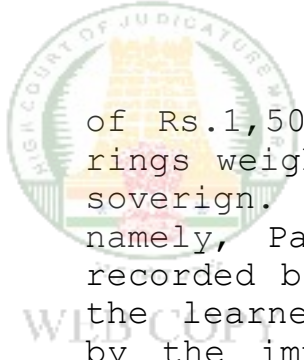
PRAYER: Criminal revision filed, under Section 397 r/w 401 Cr.P.C., to call for the records connected with the order dated 06.02.2016 in Cr.M.P.No.3921 of 2016, on the file of the learned District Munsif-cum-Judicial Magistrate, Vedasandur and set aside the same, consequently to direct the learned District Munsif-cum-Judicial Magistrate, Vedasandur to take cognizance of the case in Cr.M.P.No.3921 of 2016 and proceed the case further in accordance with law.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.Y.Prakash

O R D E R

Sevandhammal lodged a private complaint making allegations against the respondents herein, which was taken on file in Cr.M.P.No.3921 of 2016, by the learned District Munsif-cum-Judicial Magistrate, Vedasandur. It is the case of Sevandhammal that she is aged about 76 years and that she has nine children, including Rajendran and Dharmar; that on 03.02.2016, around 02.00 p.m., Mohankumar (A1), Deputy Superintendent of Police and Yesu Rajasekar (A2) / Inspector of Police came with a party of 15 Policemen to her house in search of her sons Rajendran and Dharmar; that finding them not to be in the house, the Police assaulted her and pulled her saree; that they also took away cash



of Rs.1,50,000/- kept by her in the bureau along with six gold rings weighing about ½ sovereign and a gold chain weighing about 6 sovereign. On behalf of Sevandhammal, statement of her relatives, namely, Parameswari, Selvam, Pandiammal, Devi and Jeyanthi were recorded by the Magistrate under Section 200 Cr.P.C. Thereafter, the learned District Munsif-cum-Judicial Magistrate, Veda sandur, by the impugned order, dated 06.02.2017, dismissed the private complaint on the ground that the accused are public servants and therefore, sanction should be obtained for prosecuting them. Challenging the same, Sevandhammal has filed the present criminal revision petition.

2. Heard Mr.R.Alagumani, learned counsel for the petitioner and Mr.Y.Prakash, learned counsel for the respondents and perused the materials filed in the form of typed set.

3. The second respondent has filed a counter affidavit denying the allegations made by Sevandhammal and in Paragraph Nos.5 to 10, he has stated as follows:

"5. In this regards, it is submitted that the sons and son-in-law of the petitioner and their accomplices are a notorious gang operating in Dindigul District involved in several heinous crimes over a period of time. Numerous criminal cases are registered against them that include offences under Section 302 IPC and Section 25 of the Arms Act. The aforesaid family members are history sheeters and are under the watchful eyes of the Organized Crime Unit, Tamil Nadu.

6. In this regards it is to be seen that the sheer number of cases registered against the sons and son-in-law of the Petitioner will go to show they are habitual offenders.

a. V.C.Rajendran, son of the Petitioner is assigned Eriodu PS Rowdy HS No.418/91 and 55 cases came to be registered against him that includes 3 cases of Section 302 IPC, 4 cases under the Arms Act, 12 cases under Section 307 IPC.

b. Selvam, son of the Petitioner is assigned Eriodu PS Rowdy HS No.11/2000 and 26 cases came to be registered against him including offences under Section 307 IPC and Arms Act.

c. Maharajan, son of the Petitioner is assigned Eriodu PS Rowdy HS No.12/2000 and 12 cases came to be registered against him under various section of IPC.

<https://hcservices.ecourts.gov.in/hcservices/> d. Arivudanathan, son of the Petitioner is assigned Eriodu PS Rowdy HS No.13/2000 and 14 cases came to be registered against him under



various section of IPC.

e. Dharmar, son of the Petitioner is assigned Eriodu PS Rowdy HS No.11/2000 and 14 cases came to be registered against him under various section of IPC.

f. Balamurugan, son-in-law of the Petitioner is assigned Eriodu PS Rowdy HS No.31/2013 and 27 cases came to be registered against him under various section of IPC.

7. It is to be seen that the aforesaid family members of the Petitioner are close associates of the sand mafia operating in the State, especially in Dindigul district and are involved in continuous river sand theft and earning a life out of it.
8. Being so, on 03.02.2016, while the family members of the Petitioner were involved in sand theft in Varattaru near Sottamanayakanur with the use of several vehicles belong to them, the police party led by the Respondent No.2 intercepted them and seized the same. However, the accused persons, the family members of the Petitioner fled the scene of occurrence in a speeding vehicle that attempted to kill the police party. A case under Crime No.40 of 2016 came to be registered against the aforesaid persons. On the same day, the accused persons attempted to murder another police party led by the Sub Inspector of Police, Dawood Hussain by a speeding vehicle when the intercepted the accused person while on patrol. A case came to be registered under Crime No.41 of 2016 in such regards. Both the case are now pending for trial.
9. Be that as it may, the Respondents who are investigating officers of the aforementioned cases, as part of investigation and in discharge of their regular official duty, confiscated several vehicles involved in the crimes that belonged to the accused, who as stated above, are family members of the Petitioner.
10. When such being the case, the Petitioner has come out with a false private complaint in Crl.M.P.No.3921 of 2016 as if the Respondents barged inside the house of the Petitioner and damaged several goods and forcibly took away 2 lorries, 1 car, 3 two-wheelers, 2 tractors among things and therefore sought to take action against the Respondents. As stated above, the vehicles complained of were confiscated in the two



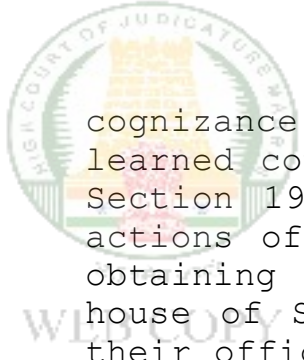
offences cited supra, which have been since returned to the accused vide orders of court made in applications seeking return of property."

4. Per contra, Mr.R.Alagumani, learned counsel for the petitioner, submitted that Sevandhammal and her daughters-in-law, by name, Priya and Selvarani were attacked by the Police and their action cannot come within the scope of the protection granted under Section 197 Cr.P.C., and therefore, the impugned order of passed by the Trial Court deserves to be set aside.

5. Mr.R.Alagumani, learned counsel for the petitioner, also contended that Sevandhammal had given a representation to the Government seeking for sanction to prosecute the respondents and the Government, by communication dated 22.06.2017, referred the representation to the Director General of Police, Chennai, for appropriate action.

6. This Court gave its anxious consideration to the rival submissions.

7. The impugned order was passed by the learned District Munsif-cum-Judicial Magistrate, Vendasandur, in Cr.M.P.No.3921 of 2016 on 06.02.2017. But, whereas, Sevandhammal has given a representation to the Government seeking for sanction only subsequently. Admittedly, Sevandhammal has sent a representation, dated 05.02.2016, to the Superintendent, C.B.C.I.D., making allegations against the respondents in connection with the alleged incident that took place on 03.02.2016. The version given by Sevandhammal in the said representation, dated 05.02.2016, is different from the version given by her in the statement recorded by the Magistrate on 17.09.2016, in Cr.M.P.No.3921 of 2016. In the representation, she has stated that the Police came to her house in search of her sons and abused her and daughters-in-law and pushed her. But, in the Statement before the Magistrate, she has stated that the Police pulled her down and disrobed her. The other witnesses, who gave statements before the Magistrate, are the neighbours and relatives of Sevandhammal and they have merely stated that the Police came to the house of Sevandhammal and damaged her household articles. In cases of this nature, the Court should be very circumspect while initiating prosecution against the public servants, who are engaged in managing the law and order in the Society, since indiscriminate prosecution would demoralize them. The Police have admitted the fact that Sevandhammal and her two sons and relatives were involved in illegal sand mining and also given number of cases registered against them. Keeping that in mind, if the contradictions in the version given by Sevandhammal are seen, the facts do not inspire confidence in the version of this Court to set aside the impugned order passed by the Trial Court and to direct the Trial Court to take



cognizance of the alleged offences. Though Mr.R.Alagumani, learned counsel for the petitioner, submitted that sanction under Section 197 Cr.P.C., will be required only to protect the legal actions of the public servants, yet on a conspectus of the facts obtaining in this case, the action of the Police going to the house of Sevandhammal in search of her sons was in discharge of their official duty. In such view of the matter, this Court is of the view that this is not a fit case to set aside the order passed by the Trial Court.

8. In the result, the criminal revision fails and it is dismissed. However, liberty is given to the petitioner to workout her remedy in the manner known to law.

Sd/-

Assistant Registrar(W)

/True Copy/

Sub Assistant Registrar

To:

1.The District Munsif-cum- Judicial Magistrate,
Vedasandur.

2. The Deputy Superintendent of Police
Vedasandur Range, Vedasandur

3.The Inspector of Police
Eriodu Police Station
Dindigul District.

+ 1 cc TO Mr.R.Alagumani , Advocate in SR No. 42777

+ 1 cc TO Mr.Y.Prakash , Advocate in SR No. 42758

krk

AE/KK/SAR1/30.01.2018/5P/6C

Cr1.R.C. (MD) No.418 of 2017
17.01.2018