



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 16.07.2018
CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

WEB COPY

Cr1. R.C. (MD) No.81 of 2017
and
Cr1.M.P. (MD) No.644 of 2018

Josephine Amalarani,
Inspector of Police,
All Women Police Station,
Devakottai.

.. Petitioner/ Petitioner/Sole
Accused

Vs.

J.Rajendran

.. Respondent/Respondent/Complainant

Prayer : This revision case is filed under Sections 397 and 401 of Cr.P.C., to call for the records relating to the orders passed in Cr.M.P.No.1927 of 2016 in C.C.No.53 of 2014, dated 03.11.2016 on the file of the learned Judicial Magistrate Court, Devakottai and set aside the same and allow the discharge petition.

For Petitioner : Mr.R.Srinivasan
For Respondent : Ms.P.Krishnaveni

ORDER

Heard Mr.R.Srinivasan, learned counsel appearing for the petitioner and Ms.P.Krishnaveni, learned counsel appearing for the respondent.

2.This revision case has been filed against the order passed in Cr.M.P.No.1927 of 2016 in C.C.No.53 of 2014, dated 03.11.2016 on the file of the learned Judicial Magistrate Court, Devakottai and to allow the discharge petition.

3.The case of the prosecution is that the petitioner threatened the respondent/complainant and during assembly, the petitioner assaulted and hit the respondent with her bootleg and slapped on his chin and hence, a complaint was registered against the petitioner and the same was taken on file as C.C.No.53 of 2014. The petitioner filed an additional petition in Cr.M.P.No.1927 of 2016.

4.On the side of the petitioner, it is stated that the petitioner was discharging her duty as an Investigating officer. On 21.06.2012, when the petitioner was conducting enquiry, the respondent threatened her stating that he belonged to Viduthalai Siruthai party and that the petitioner asked him to go outside, only



on that motive, on 22.06.2012, he made a false complaint before the Devakottai Town Police Station. On 08.09.2012, after enquiry the Inspector of Devakottai Town Police, closed the complaint, as false. No immediate action was taken by the respondent through Court, as per Section 197 of Cr.P.C. sanction was not obtained by the respondent. The petitioner has stated that the respondent gave first aid and that it is stated that one wound certificate was filed for grievous injury, X-ray and Scan report were not filed. A false case is filed belatedly after 3 years. It is further stated that under Section 197 of Cr.P.C., sanction is necessary for taking action against the petitioner, the judgment of the Bombay High Court in Manoj V. Rahemat Bee Mohd.Hasam and others reported in 2015 Legal Eagle (Bom) 919 is cited. The witnesses are daughter in-law and son of the complainant and that other witnesses are their friends, relative and belonged to same political party of the complainant and prayed that the petition to be allowed.

5. On the side of the respondent, it is stated that the petitioner misused her powers. The respondent is an old man and she assaulted and kicked him with her bootlegs and slapped him on his chin. On the same day, the complaint was lodged by the respondent and no sanction was necessary from the Competent Authority of the Government, because, the petitioner has misused her powers and hence, prayed this petition to be dismissed.

6. Records Perused.

7. From the records, it is seen that the complaint was lodged by the daughter-in-law and the son of the complainant. The case ended in an acquittal and it is stated that during the enquiry, the petitioner assaulted the respondent. The petitioner is an Inspector of Police and it is her duty to enquire the accused, when the petitioner is discharging her official duty in the official place, as per Section 197(3) of Cr.P.C. sanction from the Competent Authority of the Government is necessary. But, this private complaint was filed against the petitioner, without obtaining necessary sanction from the Competent Authority of the Government.

8. 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 passed in Cr.M.P.No.1927 of 2016 in C.C.No.53 of 2014, dated 03.11.2016 on the file of the learned Judicial Magistrate Court, Devakottai is set aside and the discharge petition is allowed. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Crl.Side)

/True Copy/



To

- 1.The Judicial Magistrate Court,
Devakottai.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 3.The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.(2 COPIES)

+1CC to Mr.N.Anthapadmanaban Advocate in SR.No.73137.

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DS RSK SAR3 11.08.2018 3P/6C

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