



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.R.C.(MD)No.844 of 2017

WEB COPY

M.P.Manickam

: Petitioner

-Vs.-

Pon Murugan

: Respondent

Prayer: Criminal Revision Case is filed under Sections 397 and 401 Cr.P.C., to call for the records and set aside the order of the learned Judicial Magistrate No.V, Trichirappalli dated 13.10.2017 in C.M.P.No.5284 of 2017.

For Petitioner : Mr.T.Senthil Kumar

For Respondent : Mr.T.Vadivelan

O R D E R

For the sake of convenience, parties will be referred to by their name.

2. On the complaint lodged by M.P.Manickam, the Sub-Inspector of police, Somarasampettai Police Station, Trichy, registered a case in Crime No.256 of 2013 and after completing investigation, has filed a final report before the learned Judicial Magistrate No.V, Tiruchirappalli for the offences under Sections 147, 148, 452, 325, 326, 506(ii) IPC r/w 3(1) of TamilNadu Public Property (Prevention of Damage & Loss) Act. Since Section 3(1) of the TamilNadu Public Property (Prevention of Damage & Loss) Act is triable by the Court of Sessions, the case has been committed to the Sessions Court, Tiruchirappalli, in S.C.No.78 of 2016. In S.C.No.78 of 2016, the first accused is Pon Murugan. As a counter-blast, Pon Murugan filed a private complaint in C.C.No.148 of 2014 before the learned Judicial Magistrate No.V, Tiruchirappalli, against M.P.Manickam [De facto complainant in S.C.No.78 of 2016] and three others for the offences under Section 120(b), 294(b), 203, 451, 506(ii) IPC r/w Section 34 IPC. During the pendency of C.C.No.148 of 2014, M.P.Manickam and two others filed C.M.P.No.5284 of 2017 in C.C.No.148 of 2014 before the learned Judicial Magistrate No.V, Tiruchirappalli, under Section 323 Cr.P.C., for committing the case to the Sessions Court, tried along with S.C.No.78 of 2016. The learned Judicial Magistrate No.V, Tiruchirappalli, dismissed C.M.P.No.5284 of 2017 on 13.10.2017 by passing the following order:

"Heard both side. Case records perused.

On due perusal of case records enquiry or trial is not commenced. Hence there is no grounds appear to commit to higher court



U/s.323 Cr.P.C. Hence this Court is dismissed this petition is not maintainable."

Challenging the order dated 13.10.2017, M.P.Manickam is before this Court.

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3. Heard Mr.T.Senthil Kumar, learned counsel appearing for the M.P.Manickam and Mr.T.Vadivelan, learned counsel appearing for the Pon Murugan.

4. The provisions of Section 323 Cr.P.C., will apply only during an enquiry or trial. As noted by the learned Judicial Magistrate No.V, Tiruchirappalli, enquiry has not begun in C.C.No.148 of 2014.

5. That apart, only during enquiry or trial, if the Magistrate is satisfied that the offences have been made out and such offences are triable by the Sessions Court, can a case be committed under Section 323 Cr.P.C., to the Sessions Court.

6. This is not a case and counter case filed by the police. C.C.No.148 of 2014 appears to be a counter-blast case for S.C.No.78 of 2016. Therefore, both the cases should be tried separately. S.C.No.48 of 2016 should not be kept pending on the ground that C.C.no.148 of 2014 is pending. Hence, this Criminal Revision Case is devoid of merits and the same is dismissed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

- 1.The Judicial Magistrate No.V,
Tiruchirappalli.
- 2.The Principal Sessions Judge,
Tiruchirappalli.

+1cc to M/S.T.Vadivelan, Advocate SR.No. 54773

+1cc to M/S.T.Senthil Kumar, Advocate SR.No. 54671

Order made in
Cr1.R.C. (MD) No.844 of 2017

Dated:
12.03.2018