



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Tuesday, the Twenty First day of August Two Thousand Eighteen

PRESENT

The Hon`ble Dr.Justice G.JAYACHANDRAN

CRL MP (MD) No.5731 of 2018

IN

CRL RC (MD) No.398 of 2018

M.BALU

... PETITIONER/APPELLANT

Vs

VIMALA
THE SUB INSPECTOR OF POLICE,
PERUNGUDI POLICE STATION,
MADURAI.

... RESPONDENTS/RESPONDENTS

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to stay the order dated 06.04.2018 in Crl.M.P.No. 1219/2018 passed by the learned Judicial Magistrate VI, Madurai.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of MR.J.SATHIARAJ, Advocate for the petitioner and of the Respondent not appeared either in person or by an Advocate, the court made the following order:-

Heard the learned counsel for the petitioner. No representation for the respondents despite the receipt of summon from this Court on 07.08.2018.

2.The revision petitioner herein has lodged a private complaint under Section 190 r/w 200 Cr.P.C., alleging that the respondent herein Sub Inspector of Police, Perungudi Police Station, Madurai, had called the petitioner herein on 15.10.2017 pursuant to the complaint given by one Vijayalakshmi, who is none other than the tenant under the revision petitioner herein. While enquiring the complaint, it is alleged that the respondent threatened the revision petitioner to repay the money to Vijaya Lakshmi which was refused by the revision petitioner since he suspected that Vijaya Lakshmi has set fire to his Maruthi omni Car. It is also alleged in the complaint that the petitioner herein was assaulted by the respondent, put him in the lock up and abused him in filthy language. It is also further alleged that due to the mental agony



caused by the respondent herein, the revision petitioner herein met with an accident while he was returning from the police station.

3.The trial Court after taking the private complaint on file has examined the defacto complainant Balu and one witness namely, Sathyaseelan. Thereafter, the trial Court dismissed the complaint on the ground that sanction under Section 197 Cr.P.C., not obtained.

4.It is contended by the learned counsel for the revision petitioner that the respondent Vimala/Sub Inspector of Police, Perungudi Police Station, Madurai is a public servant of the rank not removal from service by the Government. Section 197 Cr.P.C. Sanction is not required to prosecute her. The Inspector General of Police who is the person competent to remove the officer in the rank of Sub Inspector of Police and below. Further, it is contended by the learned counsel for the petitioner that the act of crime alleged against the respondent herein is nothing to do with function of the public servant in discharging his official duty. Therefore, sanction under Section 197 Cr.P.C., is not required to prosecute the respondent or to take cognizance of the said complaint against the respondent.

5.The learned counsel for the revision petitioner relies upon the judgment of this Court rendered in CrI.R.C.(MD)Nos.29 of 2015 and 30 of 2015, dated 10.02.2015, wherein, the above legal position is reiterated.

6.This Court fully in agreement with the above submission made by the learned counsel for the revision petitioner. Hence, this petition is allowed. The order of the learned Judicial Magistrate No.VI, Madurai, dated 06.04.2018 is set aside. The complaint is restored on file. The trial Court is directed to issue process under Section 204 Cr.P.C., and proceed with the trial in accordance with law.

sd/-
21/08/2018

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE JUDICIAL MAGISTRATE NO.VI, MADURAI

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, MADURAI



3 THE SUB INSPECTOR OF POLICE,
PERUNGUDI POLICE STATION, MADURAI

4 THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to MR.J.SATHIARAJ, Advocate SR.No.79575

ORDER
IN
CRL MP (MD) No.5731 of 2018
IN
CRL RC (MD) No.398 of 2018
Date :21/08/2018

PK/VR-MMS/SAR-2/29.08.2018 : 3P/6C