



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.08.2018

CORAM :

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.R.C.(MD) No.493 of 2018

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Prabakar

... Petitioner/ PW1 Defacto Complainant

Vs.

1.The State

represented by the Sub Inspector of Police,
Othakadai Police Station,
Madurai District.

Crime No.407 of 2007 ... 1st Respondent/Complainant

2.Deepa Lakshmi

3.Swaminathan

4.Perumal Asari ... Respondents 2 to 4/Accused 1 to 3

PRAYER: The Criminal Revision Case filed under Section 397 r/w Section 401 of the Code of Criminal Procedure, to call for the records pertaining to the order passed by the learned Judicial Magistrate Court, Melur in C.C.No. 496 of 2007 dated 07.06.2018 and set aside the same.

For Petitioner : Mr.G.Thalaimutharasu

For R1 : Mr.A.Robinson
Government Advocate (Crl.Side)

ORDER

This revision case has been filed to set aside the order passed by the learned Judicial Magistrate, Melur in C.C.No. 496 of 2007 dated 07.06.2018.

2.Heard the learned counsel on either side.

3.After filing the final report for offence under Sections 294 (b), 353 and 506 (i) IPC against the respondents 1 to 3 neither the Court nor the prosecution has taken steps to summon the witnesses for examination. However, the Court below on 07.06.2018 stopped the proceedings under Section 258 Cr.P.C., and acquitted the accused persons. After notice, the learned Government Advocate (Crl.Side) for the first respondent has produced the records. From the records, it appears that the petitioner herein has lodged a complaint on 20.06.2007 alleging that while he was working in



Government Rehabilitation Centre, the respondents 2 to 4 herein came to the office and used filthy language and prevented him from discharging his official duty. Based on his complaint, after recording the statement of the witnesses, final report has been filed by the investigation officer on 23.11.2007.

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4.The Court has ordered summons to the accused persons on 19.12.2007. But till passing of the impugned order dated 07.06.2018, the respondent police has not shown any interest to serve summons on the respondents 2 to 4, which has forced the trial Court to stop the proceedings and discharge the accused.

5.The grievance of the petitioner / de-facto complainant is that for the fault of the investigation agency / the first respondent, justice cannot put at peril. The failure of the prosecution has now allowed the other respondents to go free from the clutches of law.

6.In response to the submission made by the learned counsel for the petitioner, the learned Government Advocate (Crl.Side) would submit that if the Court remit the matter back to the trial Court, the first respondent will take all steps to summon the accused and commence the trial at the earliest.

7.Considering the submission made by the respective counsel, this Court is of the view that to meet the ends of justice, the order of the learned Judicial Magistrate, Melur ought to be set aside. Accordingly, the order passed by the learned Judicial Magistrate, Melur, dated 07.06.2018 is set aside. C.C.No.496 of 2007 is restored on file. The trial Court shall cause summons to the accused persons to appear before the Court on 11.09.2018. On such appearance of the accused persons, the learned Judicial Magistrate, Melur is hereby directed to proceed the matter in accordance with law and complete the trial within a period of two months from 11.09.2018.

Sd/
Assistant Registrar (CO)

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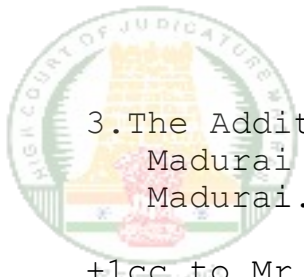
Sub Assistant Registrar (CS-II)

To

1.The Judicial Magistrate,
Melur.

2.The Sub Inspector of Police,
Othakadai Police Station,

<https://hcservices.ecourts.gov.in/hcservices/>
Madurai District.



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

+1cc to Mr.G.Thalaimutharasu, Advocate, SR.No.81010

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MM
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