



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.09.2018

WEB COPY

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Cr1.R.C. (MD) No.64 of 2013

Jamal Mydeen

... Petitioner / Complainant

Vs.

1.Jaman Sahib

2.C.N.Basheer

3.C.N.Roshan Babu

4.Ghouse Nawas

5.Anwar Baig

... Respondents / Accused

PRAYER: Petition filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records in C.C.No.523 of 1999 on the file of the learned Judicial Magistrate No.V, Madurai and set aside the order of acquittal passed by the learned Judicial Magistrate No.V, Madurai on 27.09.2012.

For petitioner : Mr.R.Jayaraman

For Respondent : Mr.S.Thirupathy

ORDER

Heard the learned counsel for the revision petitioner and the learned counsel for the respondents.

2.The revision petitioner has given a complaint before the Police, El, Thideer Nagar Police Station, Madurai, on 07.04.1999 alleging that the respondents herein trespassed into the office of the revision petitioner and committed robbery. The police has enquired into the matter and closed the complaint as mistake of fact.

3.Admittedly, there was a civil dispute between the revision petitioner and the respondents. After referred charge sheet was filed, a private complaint has been lodged before the Judicial Magistrate No.V, Madurai. On examining the witnesses produced by the private complainant, the trial Court had considered the exhibits and depositions adduced by the complainant and found that no case is made out to convict the respondents for offences under Section 457, 380 r/w 34 and acquitted them.

4.The counsel appearing for the revision petitioner / complainant would submit that the trial Court has abruptly closed the examination of witnesses and had arrived at an erroneous conclusion that no case is made out against the respondents. It is also pointed out by the learned counsel for the revision petitioner that the trial Court has referred about the disposal of a civil suit between the parties, even without any documentary evidence placed before the Court in this connection.



5. Perusal of the impugned judgement indicates that the revision petitioner had adduced two witnesses in support of his case. Both the witnesses are not the eye witness. Though, adequate opportunity was given to the revision petitioner / complainant to produce further witnesses, he has not produced any witness other than P.W.1 and P.W.2. So, with the available evidences placed by the complainant, the trial Court had gone into the merits of the case and dismissed the complaint as not proved. Apart from some observations made regarding the findings in the civil Court, the trial Court has also gone into the final report in R.C.S.No.75 of 1999, complaint in Crime No.1120 of 1999 and observation mahazar which were marked as Court Documents Ex.C1 to Ex.C3.

6. In the said circumstances, trial Court having gone into the merits of the materials placed before it for consideration by the complainant and had arrived at a conclusion that no case is made out.

7. While, the revision petitioner is aggrieved by the referred charge sheet and had decided to prosecute the respondents by way of a private complaint, he should be ready to produce all the witnesses in time. The complaint which was taken on file in the year 1999 has been disposed of on 27.09.2012, after giving adequate opportunity for the complainant to adduce evidence in support. Having failed to do so, the revision petitioner cannot seek indulgence of this Court, under the revisional jurisdiction, to reopen and adduce evidence on his behalf, after a lapse of 5 years from the disposal of the criminal complaint and also 19 years after the date of occurrence. This Court finds no merit in this case.

8. Accordingly, this Criminal Revision Case is dismissed.

Sd/-

Assistant Registrar(C.O)

/True Copy/

Sub Assistant Registrar(CS-I)

pnn

To:

Judicial Magistrate No.V,
Madurai.

+1cc to Mr.R.Jayaraman, Advocate in SR No.83493

+1cc to Mr.S.Thirupathy, Advocate in SR No.84023

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

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NM/PM/SAR 1/05.10.18/2P/4C