

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 10.04.2019

CORAM:
THE HON'BLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.233 of 2019

Perumal

.. Petitioner

Vs.

1.State by

Inspector of Police,
Kallavi Police Station,
Kallavi,
Krishnagiri District.

2.Chinnathambi

3.Unnamalai

.. Respondents

Criminal Revision filed under Sections 397 and 401 Cr.P.C., praying to set side the order passed in Cr.M.P.No.1473 of 2017 on the file of the learned Judicial Magistrate, Uthangarai dated 17.05.2018.

For Petitioner : Mr.K.Thiruvengadam

For Respondent : Mr.R.Ravichandran
Government Advocate (Crl.side)

O R D E R

This Criminal Revision has been filed to set side the order passed in Cr.M.P.No.1473 of 2017 on the file of the learned Judicial Magistrate, Uthangarai dated 17.05.2018.

2. The revision petitioner filed a complaint before the first respondent police. The respondent police registered a case in Crime No.261 of 2016 and after investigation, filed a closure report before the District Munsiff-cum-Judicial Magistrate Court, Uthangarai. The revision petitioner/complainant has filed a protest petition before the learned Magistrate and after hearing both sides, the learned Magistrate dismissed the petition stating that the dispute is civil in nature. Aggrieved by the said order, the complainant has filed the present revision before this Court.

3. The learned counsel for the petitioner would submit that though there is allegations against the accused, the petitioner lodged complaint. The accident Register entry also shows that the defacto complainant was admitted in the hospital and taken treatment. Neither the Investigation Officer nor the Judicial Magistrate failed to consider the statement under Section 161 Cr.P.C recorded from the defacto complainant during investigation. The learned Magistrate, without applying his mind, dismissed the protest petition on the ground that the dispute is civil in nature by citing the judgments of this Court and also the Apex Court, which are not applicable to the present case in hand.

4. The learned Government Advocate (Crl.Side) would submit that the entry found in the accident register does not show any external injury and the Investigation Officer stated that the complaint filed by the petitioner itself is false. There is no records to show that the Investigation Officer's opinion that the complaint is false.

5. On reading of the order passed by the learned Magistrate, it is seen that the learned Magistrate has not stated anything about the materials on which, he came to the conclusion that the dispute is civil in nature. This Court called for the records and gone through the entire records carefully. On a perusal of the statement of the defacto complainant recorded under section 161 Cr.P.C and the entry made in the Accident Register, it is clear that the allegation against the accused is true. Therefore, the order passed by the Court below is liable to be set aside.

6. Accordingly, this Criminal Revision Case is allowed. The order dated 17.05.2018 made in Cr.M.P.No.1473 of 2017 passed by the learned Judicial Magistrate, Uthangarai is set aside. The respondent is directed to investigate the case afresh and file charge sheet in accordance with law.

सत्यमेव जयते

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

kmi

To

1.The Judicial Magistrate,
Uthangarai.

2.The Inspector of Police,
Kallavi Police Station,
Kallavi, Krishnagiri District.

3.The Section Officer,
Criminal Section,
High Court, Madras.

+1cc to Mr.K.Thiruvengadam, Advocate, S.R.No.35492

Cr1.R.C.No.233 of 2019

RK (CO)

RRS (20/06/2019)



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