

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.481 of 2016

Shanmugasundarm

...

Petitioner

Vs

1.Thirumurthi

2.Sankar

3.Sekar

...

Respondents

PRAYER: Criminal Revision case filed under Section 397 and 401 of the Criminal Procedure Code, to set aside the order passed in C.M.P.No.141 of 2014 dated 08.08.2014 on the file of the District Munsif cum Judicial Magistrate, Paramathi in proceedings initiated under Section 200 of Cr.P.C., in dismissing the complaint filed by the petitioner.

For Petitioner : Mr.R.Subramanian

For Respondents: Mr.S.Kaithamalai Kumaran

ORDER

This Criminal Revision Case has been filed to set aside the order passed in C.M.P.No.141 of 2014 dated 08.08.2014 on the file of the District Munsif cum Judicial Magistrate, Paramathi in proceedings initiated under Section 200 of Cr.P.C., in dismissing the complaint filed by the petitioner.

2 The petitioner/complainant filed a private complaint against the respondents/accused under Section 200 of Cr.P.C., before the learned District Munsif cum Judicial Magistrate, Paramathi, in C.M.P.No.141 of 2014 for the offence under Sections 147, 148, 294(b), 341, 323, 387, 430, 506(ii) of IPC., The learned District Munsif cum Judicial Magistrate, Paramathi, after giving sufficient opportunities to both the parties, dismissed the complaint given by the petitioner/complainant. As against the order of dismissal the petitioner filed the present Criminal Revision Case before this Court.

3 The learned counsel for the petitioner would submit that there is a hearsay evidence from the witnesses that he was assaulted by the respondents and also he has taken treatment from one of the private hospital and that fact has not been considered by the learned District Munsif cum Judicial

Magistrate, Paramathi, and even dismissed the complaint under Section 203 of Cr.P.C., without considering the material placed before it and the order of the lower Court warrants interference.

4 The learned counsel for the respondents would submit that the petitioner filed a private complaint against the respondents under Section 200 of Cr.P.C., for the offence under Sections 147, 148, 294(b), 341, 323, 387, 430, 506(ii) of IPC., before the learned District Munsif cum Judicial Magistrate, Paramathi, and police had also investigated the matter. After investigation filed a final report that the prima facie has not been made out even in the year 2012 itself. Final report was exhibited by the Court and closed the case. Thereafter, he has not filed any petition and has not taken any action in accordance with law, against the closer of the order passed by the learned Magistrate. Only the revision petitioner has filed the private complaint before the learned District Munsif cum Judicial Magistrate, Paramathi, only in the year 2014. In order to prove his complaint the petitioner has not taken any steps and proceed further against the closer report. Therefore, the present complaint is not maintainable. More over, the civil suit in O.S.No.112 of 2012 was admitted in favour of the respondent. Therefore, the present case in hand is civil in nature and the dispute is regard with civil in nature. The learned Judicial Magistrate rightly dismissed the complaint which warrants no interference.

5 Heard, the learned counsel for the petitioner as well as the learned counsel for the respondent and perused the materials available on record.

6 Admittedly, the revision petitioner filed a private complaint under Section 200 of Cr.P.C., before the District Munsif cum Judicial Magistrate, Paramathi, that was dismissed by the learned Judicial Magistrate on the ground that the dispute was in civil in nature and further submitted that the police filed a charge sheet and the charge sheet was exhibited by the Court and closed. However in order to prove the occurrence the petitioner has not taken any steps or challenge the final report filed by the police or challenged the order passed by the learned District Munsif cum Judicial Magistrate. Further, the present complainant filed a private complaint before the learned District Munsif cum Judicial Magistrate, Paramathi after five years and further it is not in dispute that a civil suit has also been filed and pending between both the parties.

7 Considering the facts and circumstances of the case, this Court does not find any perversity in the order passed by the learned District Munsif cum Judicial Magistrate, Paramathi, in C.M.P.No.141 of 2014. Therefore, there is no merits in this case. Accordingly, the present Criminal Revision Case is dismissed.

Sd/-
Assistant Registrar(CO)

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Sub Assistant Registrar

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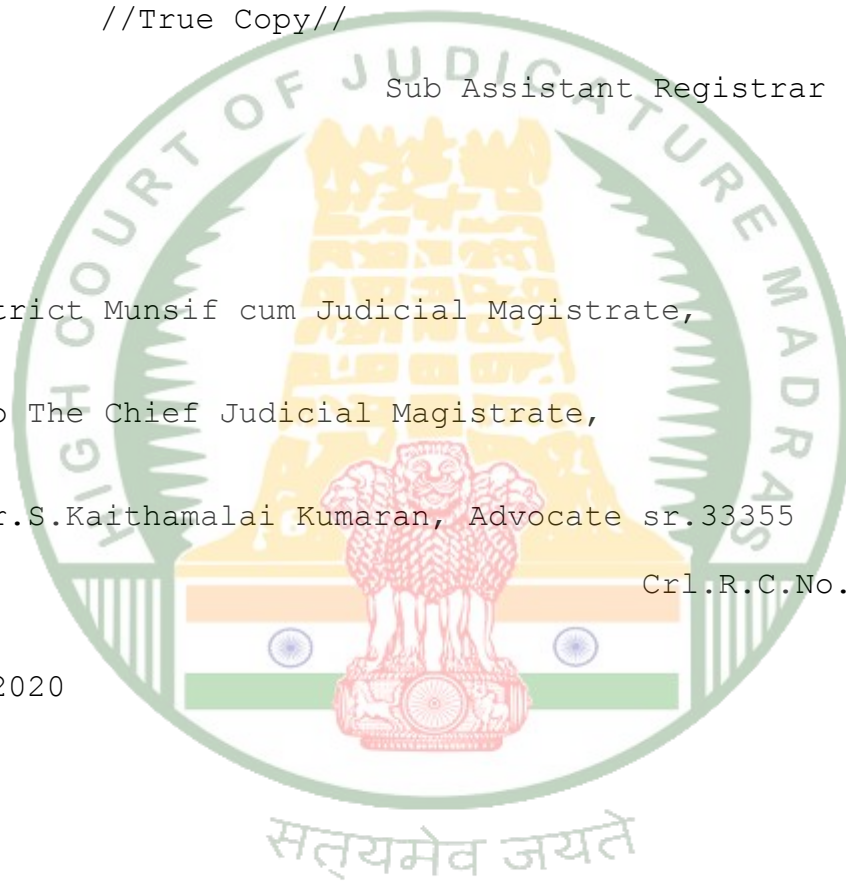
1.The District Munsif cum Judicial Magistrate,
Paramathi

2. do Thro The Chief Judicial Magistrate,
Namakkal.

+1cc to Mr.S.Kaithamalai Kumaran, Advocate sr.33355

CrI.R.C.No.481 of 2016

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