



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.04.2019

CORAM

THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI

Cr1.R.C(MD)No.233 of 2019

and

Cr1.MP(MD)No.3448 of 2019

Thavasi

: Revision Petitioner/
De-facto complainant

Vs.

The Sub Inspector of Police,
Sathankulam Police Station,
Sathankulam,
Tuticorin District.

: Respondent/Complainant

Prayer: Criminal Revision Petition has been filed under Section 397 r/w 401 and 482 of Criminal Procedure Code, against the order of the Assistant Session Judge, Tiruchendur, dated 06.12.2018 made in Cr.M.P.No.294 of 2018 in S.C.No.157 of 2017.

For Revision Petitioner : Mr.T.Vadivelan

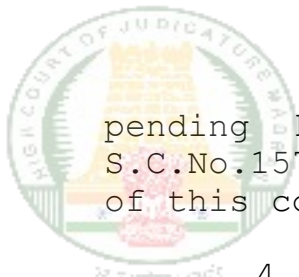
For Respondent : Mr.A.Robinson
Government Advocate
(Criminal side)

O R D E R

This criminal revision is directed against the order of the Assistant Sessions Judge, Tiruchendur, dated 06.12.2018 made in Cr.M.P.No.294 of 2018 in S.C.No.157 of 2017.

2.Heard both sides and perused the materials available on record.

3.It is stated by the petitioner that he lodged a complaint before the respondent police on 09.09.2012 stating that one Amaichar and 5 others assaulted the petitioner and another by iron rod and caused grievous injury on the head and other vital parts and threatened them with dire consequences and also abused with filthy language. The respondent police has registered a case in Crime No.275 of 2012 under Sections 147, 148, 294(b) and 307 and 506(ii) IPC and investigated the case and filed a final report before the Judicial Magistrate, Sathankulam and now, the case is



pending before the Assistant Sessions Judge, Tiruchendur in S.C.No.157 of 2017 and charge sheet also filed after obtaining order of this court in CrI.O.P(MD)No.18119 of 2016, dated 04.10.2016.

4. It is the further case of the petitioner that there are 10 witnesses mentioned as prosecution witnesses and seven documents were mentioned as exhibits, but the respondent police did not enquire the Medical Officer of Tirunelveli Government Hospital and in this case, the petitioner and another took treatment in that Hospital for 10 days and hence, the said Hospital alone is competent to give medical certificate, however, the respondent police enquired only the Doctor, who has given first aid to the petitioner. Hence, the petitioner filed an application in Cr.M.P.No.294 of 2017 for re-investigating the matter and since, the said petition was dismissed for non-prosecution, the petitioner is before this court.

5. The respondent filed a counter stating that based on the complaint lodged by the petitioner, a case in Crime No.275 of 2012 has been registered and subsequent to the registration of FIR, investigation was conducted and final report was also filed against six named accused before the Judicial Magistrate, Sathankulam and the same was taken as PRC No.32 of 2016 and thereafter, the case was committed to the Additional Sessions Judge, Tiruchendur and taken on file as S.C.No.157 of 2017 and while the case is pending for trial, the petitioner filed a petition in Cr.M.P.No.294 of 2018 seeking reinvestigation of the entire case and even though, he has filed a petition for reinvestigation, he has not chosen to argue the petition before the trial court and due to non-appearance, the petition was dismissed for non-prosecution and prays for dismissal of the criminal revision.

6. It is seen from the records that based on the complaint given by the petitioner, FIR was registered in Crime No.275 of 2012 and subsequent to the registration of the FIR, investigation was conducted and final report was filed against six persons and the case was committed to the Additional Sessions Judge, Tiruchendur and it was taken on file as S.C.No.157 of 2017. Further, it is seen that the petitioner has filed a petition for re-investigation, pending trial.

7. It is to be noted that the petition filed by the petitioner for re-investigation was dismissed for non-prosecution, without hearing on the side of the petitioner. Hence, to meet the ends of justice, the petitioner should be given one more opportunity to defend his case.

8. In the result, this criminal revision is allowed. The impugned order, dated 06.12.2018 passed by the Assistant Sessions Judge, Tiruchendur, is set aside. The learned Judge is directed to take up Cr.M.P.No.294 of 2018 in S.C.No.157 of 2017 and dispose of the same, on merits and in accordance with law, after giving



reasonable opportunity to the parties concerned, within a period of four weeks from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(AS)

// True Copy //

Sub Assistant Registrar(CS)

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To,

- 1.The Assistant Sessions Judge,
Tiruchendur.
- 2.The Sub Inspector of Police,
Sathankulam Police Station,
Sathankulam, Tuticorin District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC TO MR.T.VADIVELAN, Advocate Sr. No. 62404

Order made in
Cr1.R.C(MD)No.233 of 2019
24.04.2019

AL(CO)
TR (14.06.2019) 3P 5C