



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 09.07.2019

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THE HONOURABLE MRS. JUSTICE **T.KRISHNAVALLI**

Crl.RC(MD)No.336 of 2019

and

Crl.MP(MD)No.4945 of 2019

Durairaj : Revision Petitioner/Petitioner/PW2

Vs.

The State through
Inspector of Police,
Taluk Police Station,
Dindigul.

: Respondent/Respondent/Complainant

Prayer: Criminal Revision filed under Section 397 r/w 401 of the Code of Criminal Procedure against the order passed by the Judicial Magistrate No.I, Dindigul, in Crl.MP No.1919 of 2019 in C.C.No.111 of 2018, dated 14.05.2019.

For Revision Petitioner : Mr.S.Sarvagan Prabhu

For Respondent : Mr.APG Ohm Chairma Prabhu
Government Advocate
(Criminal Side)

O R D E R

This criminal revision is directed against the order passed by the Judicial Magistrate No.1, Dindigul, in Crl.MP No.1919 of 2019 in C.C.No.111 of 2018, dated 14.05.2019.

2.The facts of the case is that on 30.12.2017, the wife of the revision petitioner was brutally attacked by her father-in-law's brother namely Murugesan and for that, a complaint was preferred before the respondent police and when the said complaint is pending, on 31.12.2017 at about 07.00 am, the said Murugesan family again approached the revision petitioner to withdraw the complaint pending before the respondent police preferred by his wife and during the time of interaction, the revision petitioner was also brutally attacked by the said Murugesan family members with deadly weapons and thereby caused injury all over the body of the revision petitioner, for which he was taking treatment in the Madurai



Government Hospital for 15 days and also underwent plastic surgery for the loss of his finger and at the time of undergoing treatment, the respondent police obtained complaint from PW1 (Sudharson) and registered a case in Crime No.775 of 2017 for the offence punishable under sections 147, 148, 324 and 506(II) IPC.

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3.It is the case of the revision petitioner that after discharge from the hospital, the revision petitioner found that the respondent police acted in favour of the accused and registered the case for lessor offences and thereafter, the revision petitioner filed Crl.OP(MD)No.2790 of 2018 before this court, for transfer of investigation to some other agency, which is pending. In the meantime, the respondent police filed a charge sheet before the Judicial Magistrate No.1, Dindigul and the same was taken on file in C.C.No.111 of 2018. The respondent police filed charge sheet without proper and genuine investigation. The revision petitioner filed petition under section 178(8) of Cr.P.C in Crl.MP No.1919 of 2019 before the trial court for further investigation. The said petition was dismissed by the Judicial Magistrate No.1, Dindigul, dated 14.05.2019. Aggrieved by the said order, the revision petitioner is before this court.

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

5.The main contention of the revision petitioner/PW2 is that the injuries sustained by the revision petitioner/PW2 found to be serious in nature and due to the order passed by the learned Judicial Magistrate, this revision petitioner's chance to prove his case that a brutal attack was made on the revision petitioner has been affected and no reasonable opportunity was given to the revision petitioner and prays that the criminal revision has to be allowed.

6.The revision petitioner stated that he was brutally attacked by the accused and the injuries sustained by him was serious in nature and further he was attacked by 9 persons and the police obtained his son's signature in a blank paper and on perusal of the case reveals that the police filed the charge sheet without proper and genuine investigation and he was in-patient for 15 days in the Government Hospital, Madurai and he also undergone plastic surgery for the loss of his finger and no prejudice will be caused if further investigation is ordered and prays that the criminal revision has to be allowed.

7.The main contention of the revision petitioner is that the learned Judicial Magistrate without giving reasonable opportunity proceeded the case and hence, the real fact will not be proved. The revision petitioner was inpatient in 15 days and he was undergone surgery for the loss of his fingers. Further, the revision petitioner states that he was assaulted by the the accused with



deadly weapons and he was further attacked by 9 persons. But in this case, it was stated that the revision petitioner was attacked by five persons. Further, no prejudice will be caused if further investigation is ordered.

8.Hence, this court is of the considered view that to find out the truth of the case, it is necessary to order further investigation. The reasons stated in the petition are acceptable. Therefore, in interest of justice, the impugned order passed by the trial court is liable to be set aside and accordingly, it is set aside.

9.In the result, this criminal revision is **allowed**. The impugned order passed by the Judicial Magistrate No.1, Dindigul, in Crl.MP No.1919 of 2019 in C.C.No.111 of 2018, dated 14.05.2019 is set aside. The respondent is directed to take up the matter for further investigation and file a fresh report before the trial court, within a period of three months from the date of receipt of a copy of this order. On such report is being received, the trial court is directed to dispose of the case, purely on merits and in accordance with law within a period of three months thereafter. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The Judicial Magistrate No.1,
Dindigul.

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

+1 CC to M/s.S.SARVAGAN PRABHU, Advocate (SR-74595[F] dated
10/07/2019)

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JMN(16.12.2019) 3P : 4C