



BEFORE THE MADURAI BENCH OF THE MADRAS HIGH COURT

DATE : 01.11.2019

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

CRL. R.C. (MD) NO. 585 OF 2015

WEB COPY

Madan

.. Petitioner

- Vs -

1. Panthanam
2. Sanjeeviraj
3. Selvi

.. Respondents

Criminal Revision Case filed u/s 397 r/w 401 of the Code of Criminal Procedure, against the order dated 14.08.2015, passed by the learned Judicial Magistrate, Theni, in Crl. M.P. No.4977/2015.

For Petitioner : Mr. C.Jegannathan

For Respondents : No Appearance

ORDER

The present revision has been filed by the petitioner against the dismissal of the complaint by the trial court u/s 190 (1) r/w 200 Cr.P.C. vide order dated 14.08.2015.

2. It is the case of the petitioner that due to the acts of misappropriation of the funds of the panchayat, which was questioned by the petitioner, the 1st respondent, at the instigation of respondents 2 and 3, filed a frivolous complaint against the petitioner, leading to prosecution against the petitioner in STC No.1196/2014. It is the further averment of the petitioner that after trial, the petitioner was acquitted vide judgment dated 3.9.14 and due to the frivolous complaint leading to prosecution, the petitioner faced several hardship and the said false criminal case has literally branded the petitioner as an accused without any iota of truth, which ultimately culminated in damaging the reputation and image of the petitioner before the public. Therefore, to restore his image before the eyes of the society, the petitioner lodged the private complaint against the respondents herein. However, the said private complaint was dismissed by the learned Magistrate, aggrieved by which the present revision has been preferred.

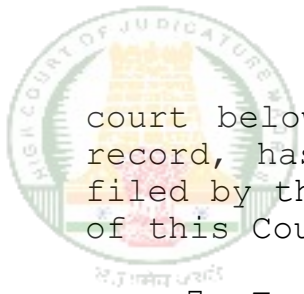


3. Learned counsel appearing for the petitioner reiterated the grounds as raised in the petition as well as the arguments put forth before the trial court to assail the order passed by the court below. It is submitted by the learned counsel for the petitioner that not only the frivolous complaint has tarnished the image of the petitioner, but the misappropriation of funds, which was raised by the petitioner has been shielded by the order, thereby, the criminal process has been abused and, therefore, the petitioner filed the private complaint. However, the trial court, without properly appreciating the materials placed by the petitioner, has dismissed the complaint, which requires interference by this Court.

4. This Court bestowed its best attention to the submissions advanced by the learned counsel for the petitioner and also perused the materials available on record as also the impugned order passed by this Court.

5. A perusal of the order passed by the court below reveals that the trial court, taking into consideration the order of acquittal recorded against the petitioner by the criminal court, has come to the conclusion that the acquittal of the petitioner was on the ground that the prosecution has not proved the case beyond reasonable doubt but granting the benefit to the petitioner herein and has acquitted him. Therefore, the court below held that the acquittal not being on the ground of malicious prosecution, but on the basis of benefit of doubt, held that the prosecution initiated against the petitioner herein cannot be said to be a malicious prosecution. The court below has further held that the private complaint has been lodged by the petitioner subsequent to the delivery of the judgment in the criminal prosecution initiated against him. The court below held that the delay in the petitioner herein lodging the complaint, waiting for the judgment in the criminal case against him clearly shows that the petitioner is filing the complaint claiming defamation and not on the basis of the allegation of misappropriation made by him against the respondents herein. Therefore, the trial court held that the delay in lodging the complaint by the petitioner is fatal and that no materials are available on record to proceed against the respondents and, accordingly, dismissed the private complaint preferred by the petitioner.

6. On a careful analysis of the reasons attributed by the trial court to dismiss the private complaint filed by the petitioner, this Court is in complete agreement with the reasons adduced and does not find any infirmity in the said reasoning. The complaint filed by the petitioner herein is a counter complaint to the complaint made by the respondents herein against him, which ultimately led to the prosecution of the petitioner, ending in his acquittal. The delay caused by the petitioner in waiting till acquittal is recorded in



court below, on proper appreciation of the materials available on record, has rendered a correct finding by dismissing the complaint filed by the petitioner, which warrants no interference at the hands of this Court.

7. For the reasons aforesaid, this Court finds no merit in the present revision and, accordingly, the revision fails and the same is dismissed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

Sub Assistant Registrar(CS)

GLN

To

1.The Judicial Magistrate
Theni.

2.The Chief Judicial Magistrate,
Theni.

3.The Inspector of Police,
Veerapandi Police Station, Theni District.

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

Copy to: The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.(2 COPIES)

+1 cc Mr.C.JEGANATHAN ,Advocate, SR.No. 95506

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KK/SAR/12.11.2019/3P-8C/