



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 16.03.2020

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

WEB COPY

Cr1.RC(MD)No.176 of 2020

Piramila Thailat

: Petitioner/Petitioner

Vs.

State represented by
Sub Inspector of Police,
Kollancode Police Station,
Kanyakumari District.
(Crime No.82 of 2019)

: Respondent/Respondent

Prayer: Criminal Revision filed under section 397 r/w 401 of the Code of the Criminal Procedure against the order made in RC No.10 of 2019, dated 06.01.2020 on the file of the Judicial Magistrate No.II, Kuzhithurai and direct the learned Judicial Magistrate to take the case on file.

For Petitioner : Mr.R.Shenbaga Vignesh
for Mr.D.Saravanan

For Respondent : Mr.A.P.G Ohm Chairma Prabhu
Government Advocate (Cr1. Side)

O R D E R

This criminal revision is directed against the order passed in RC No.10 of 2019, dated 06.01.2020 by the Judicial Magistrate No.II, Kuzhithurai and to direct the learned Judicial Magistrate to take the case on file.

2.According to the prosecution, on 17.05.2018 due to previous dispute, one Ajitha, Kamaraj, Lilly, Ajithkumar, Sujikumar and some hooligans attacked the petitioner. In this connection, a case in Crime No.8 of 2019 stands registered for the offence under sections 147, 447, 294(b), 323, 354 and 506(II) IPC by the respondent police. Now the said case has been referred as "Mistake of Fact" by the respondent police and it was recorded by the Judicial Magistrate No.II, Kuzhithurai, in RC No.10 of 2019, dated 06.01.2020. Aggrieved by the said order, the petitioner is before this court.



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

4. It is seen that the learned Judicial Magistrate accepted the referred charge sheet filed by the respondent police on the ground that there was a previous case relating to dowry harassment against the petitioner. But the learned Magistrate failed to appreciate the reply as well as the protest petition filed by the petitioner and passed a non-speaking order on 06.01.2020 without analysing the evidence on record. Further perusal of the impugned order passed by the learned Judicial Magistrate reveals that he did not discuss about the evidence of witnesses as well as the documents marked. Hence, it is held that no proper enquiry was conducted by the trial court and the impugned order passed by the trial court is a non speaking order.

5. For the reasons stated above, this court is of the considered view that the impugned order passed by the trial court is liable to be set aside and the learned trial court is directed to dispose of the petition RC No.10 of 2019 afresh.

6. In the result, this criminal revision is **allowed**. The impugned order, dated 06.01.2020 passed in RC No.10 of 2019 by the Judicial Magistrate No.II, Kuzhithurai is set aside. The case is remitted back to the trial court namely the learned Judicial Magistrate No.II, Kuzhithurai to dispose of the petition RC No.10 of 2019 afresh, in accordance with law, after giving reasonable opportunity to the parties concerned as well as perusing the entire materials on record, within a period of four weeks from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar(AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To,

1. The Sub Inspector of Police,
Kollancode Police Station,
Kanyakumari District.



2.The Judicial Magistrate No.II,
Kuzhithurai, Kanyakumari District.

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

+1 CC to M/s.D.SARAVANAN, Advocate (SR-12059[F] dated
17/03/2020)

Cr1.RC(MD)No.176 of 2020
16.03.2020

AL(CO)
TR(13.05.2020) 3P 5C