



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Cr1.R.C(MD)No.12 of 2016

S.Siluvai Pitchai ... Petitioner / Respondent / Accused

Vs

D.Devaraj ... Respondent / Petitioner / Complainant

PRAYER: Criminal Revision Cases have been filed under Section 397 r/w 401 of the Criminal Procedure Code, to call for the records and set aside the order dated 04.12.2015 passed in Cr1.R.C.No.13 of 2015 on the file of the I Additional District and Sessions Judge, Tirunelveli, Tirunelveli District.

For petitioner : Mr.A.Thiruvadi Kumar

For Respondent : Mr.S.A.Ganapathy Raman

ORDER

This petition is filed by the accused in an unregistered STC No. Nil of 2014, as against the order passed by the learned I Additional District and Sessions Judge, Tirunelveli in Cr1.R.C.No.13 of 2015 dated 04.12.2015.

2.The respondent/ complainant filed a private complaint as against this petitioner before the learned Judicial Magistrate No.IV, Tirunelveli in an unregistered STC No.Nil of 2014 for the offence punishable under Section 138 of NI Act.

3.The complaint was presented on 28.08.2014 and cognizance was taken by the learned Judicial Magistrate No.IV, Tirunelveli on 08.1.2015 and on that date the complainant was absent and there was no representation for him also. Therefore, the trial Court issued Court notice to the complainant as per D.No.3234 of 2014 and the said notice was returned as no such addressee in the said address. Hence, the complaint was dismissed for non appearance of the complainant in the above said complaint. As against the order of the learned Judicial Magistrate dated 08.01.2015, the respondent complainant preferred a revision before the learned Sessions Court,



Tirunelveli and the same was taken on file in CrI.R.C.No.13 of 2015 and was allowed by the learned I Additional Sessions Judge, Tirunelveli by order dated 04.12.2015. The present revision has been filed by the accused on the ground that the Court notice addressed to the complainant in D.No.3234 of 2014 had been returned as no such addressee on 06.01.2015 and once, when the Court notice had been returned as no such addressee and the complainant has not approached the Court with clean hands, the revisional Court ought not to have entertained the revision case.

4.Heard Mr.A.Thiruvadi Kumar, learned Counsel for the revision petitioner and Mr.S.A.Ganapathyraman and perused the materials placed on record.

5.The respondent complainant has filed the complaint that he is residing at Door No.136 NGO 'B' Colony, Tirunelveli, Tirunelveli District. In fact, he is residing in NGO colony. But according to the learned Counsel for the respondent/complainant, the said colony is now called as 'New colony' instead of 'B' colony. However, the complainant without knowing the same, has mentioned his address as 'B' colony inadvertently and therefore, notice issued by the learned Judicial Magistrate No.IV could not be served on the respondent. However, the revision petitioner has produced sufficient document before the learned Sessions Court for his proof of address and satisfied with the same, the learned Sessions Court allowed the revision petition. The petitioner cannot take undue advantage of the error occurred on oversight and this revision petition is not maintainable. Accordingly, the revision petition is dismissed.

6.The trial Court is directed to take up the matter and conclude the trial as early as possible.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

1.I Additional District and Sessions Judge,
Tirunelveli,
Tirunelveli District.

2.The Judicial Magistrate No.IV,
Tirunelveli, Tirunelveli District.



Copy to:

1. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
2. The Section Officer, (2 copies)
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

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