

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reservation	27.01.2020
Date of Judgement	23.03.2020

CORAM

THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI

Cr1.R.C(MD)No.911 of 2019

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Mohammed Farooq

: Petitioner/Petitioner

Vs.

1.Mohammed Iqbal

2.Mumtaj

3.Syed

: Respondents/Respondents

Prayer: Criminal Revision Petition has been filed under Section 397 r/w 401 of Criminal Procedure Code, against the order, dated 24.09.2019 in Cr.MP No.11831 of 2019 by the Judicial Magistrate No.IV, Trichy.

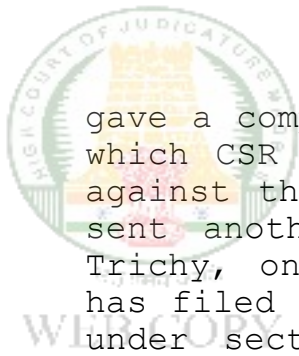
For Revision Petitioner : Mr.S.Thangaraj

For Respondents : No appearance

O R D E R

This criminal revision is directed against the order, dated 24.09.2019 passed in Cr.MP No.11831 of 2019 by the Judicial Magistrate No.IV, Trichy.

2.The petitioner is doing business in the name and style of Global Energies, dealing in export and import business and the first respondent is doing whole sale of rice and running under the name and style of Al-Hafiz Traders and in such course of business between the parties, the petitioner has exported rice bags worth about Rs.16 Lakhs to the first respondent and the said export was done by the petitioner without receiving the amount of Rs.16 Lakhs, since the first respondent promised to pay the same in due course of time and subsequently, the respondents 2 and 3 approached the petitioner and sought for a sum of Rs.20 Lakhs as loan for development of their business and since the petitioner is having business transaction with the first respondent, believing the statements of his wife and son namely the respondents 2 and 3, the petitioner paid Rs.16 lakhs on two occasions at Rs.8 Lakhs each and thus, the total amount payable by the respondents is Rs.32 Lakhs and for the above borrowal, the first respondent issued some cheques as security and in such circumstances, due to financial crisis, the petitioner approached the first respondent on 03.05.2019 and demanded money, but the first respondent started abusing the petitioner and his friends in a filthy language and also threatened with dire consequences and the other respondents started shouting and abusing and tried to attack the petitioner and others and also threatened the petitioner with dire consequence. In this regard, the petitioner



gave a complaint before the Inspector of Police, Thillai Nagar, for which CSR No.154 of 2019 has been issued, but no action was taken against the accused persons. In such circumstances, the petitioner sent another complaint addressed to the Commissioner of Police, Trichy, on 07.05.2019. Since there is no response, the petitioner has filed a complaint before the Judicial Magistrate No.IV, Trichy, under section 156(3) Cr.P.C. The learned Judicial Magistrate has altered the said complaint and took on his file as a complaint under section 200 of Cr.P.C in Cr.M.P.No.11831 of 2019, which was registered for the offence under section 294(b) and 506(ii) IPC. Thereafter, the learned Magistrate dismissed the said petition, by order, dated 24.09.2019 on the ground that no case has been made by the petitioner for the offence under sections 294(b) and 506(ii) IPC. Aggrieved by the said order, the petitioner is before this court.

3.Heard the learned counsel appearing for the petitioner and perused the materials available on record. No representation for the respondents.

4.It is mainly argued on the side of the petitioner that the trial court itself took cognizance of the complaint and altered the same from 156(iii) Cr.P.C to 200 Cr.P.C and recorded the statement of the petitioner as well as two witnesses, thus, the trial court satisfied that a case was made out and hence, the impugned order passed by the trial court is liable to be set aside.

5.Under Section 190(1)(a) Cr.P.C., the Magistrate has to receive the complaint and thereafter, under Section 200 Cr.P.C shall examine upon oath of the complainant and the witness present, if any, for recording the sworn statement of the complainant and other witnesses and the Magistrate may take cognizance of the offences or he may dismiss the complaint under Section 203 Cr.P.C on considering the oath of the complainant and witnesses.

6.On coming to the instant case on hand, the Judicial Magistrate No.IV, Trichy took cognizance of the complaint and altered the same from 156(3) to 200 Cr.P.C and subsequently, recorded the statements of the petitioner and two witnesses. Even though, the trial court having read the complaint and also serious allegations made against the accused on its own altered the complaint filed under section 156(iii) Cr.P.C into 200 Cr.P.C, had passed the order in a pre-determined manner without examining the accused. Hence, the findings of the trial court that no ingredients set out in the complaint is not correct and accordingly, the impugned order passed by the trial court is liable to be set aside.

7.In fine, this criminal revision is **allowed**. The impugned order dated 24.09.2019 passed in Cr.M.P.No.11831 of 2019 by the



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Judicial Magistrate No.IV, Trichy is set aside. The Judicial Magistrate No.IV, Trichy is directed to proceed with the complainant, in accordance with law.

Sd/-

Assistant Registrar ()

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Sub Assistant Registrar(CS)

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To:

The Judicial Magistrate No.IV,
Trichy.

+1 CC to M/s.S.THANGARAJ, Advocate (SR-12876[F] dated 23/03/2020)

Order made in
Crl.R.C(MD)No.911 of 2019
23.03.2020

SPU(31.08.2020) 3P 3C