

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2021

CORAM

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.138 of 2021

P.Palanisamy

... Petitioner

Versus

1.State by

The Sub Inspector of Police,
Thevoor Police Station,
Salem District.

2.Mani

3.Palaniappan

... Respondents

PRAYER: Criminal Revision petition is filed under Section 397 & 401 Cr.P.C seeking to set aside the order dated 08.01.2021 in C.M.P.No.1552 of 2020 on the file of Judicial Magistrate No.I, Sankari, by allowing this Criminal Revision Petition.

For Petitioner : Mr.R.Marudhachalamurthy

For R1 : Mr.K.Madhan

Government Advocate (Crl.Side)

O R D E R

This Criminal Revision Case has been filed seeking to set aside the order dated 08.01.2021 in C.M.P.No.1552 of 2020 on the file of Judicial Magistrate No.I, Sankari.

2. The petitioner gave complaint against the 2nd and 3rd respondent before the first respondent police. Since the police has not taken any action, the petitioner has filed the petition before the Judicial Magistrate under section 156(3) Cr.P.C. The learned Magistrate after hearing the arguments, dismissed the petition. Therefore, the petitioner has filed the present revision before this Court.

3. The learned counsel for the petitioner would submit that though the petitioner has stated that he has right to participate in the administration of the temple, the learned Judicial Magistrate held that it is a civil dispute and he has

to workout his remedy. However, the fact is that somebody has stolen the Undiyal money and therefore, it is the duty of the police to investigate the matter. However, when the petitioner filed the complaint before the police, the police has not taken any steps to investigate the matter. Therefore, the petitioner approached the Magistrate and filed six documents and listed nine witnesses. Even without examining those witnesses and documents, the learned Magistrate simply dismissed the petition on the findings that it is civil in nature. Therefore, the impugned order warrants interference.

4. Heard and perused the records

5. According to the learned counsel for the petitioner, after the petitioner giving the complaint, the police without investigating the matter, closed the CSR, but it is seen that the police has dragged the proceedings for some time. Therefore, the petitioner approached the Magistrate. In the complaint filed, there is averment made before the Magistrate that the temple Undiyal money was stolen. In such circumstances, the Magistrate should have directed the police to investigate the matter. But the Magistrate, without giving any directions, only closed the complaint on the ground that the matter is civil in nature. If the Magistrate finds that the averment made in the complaint is not sufficient for taking action or prima facie not satisfied with the complaint, from the list of witnesses cited by the petitioner, the Magistrate should have examined the witnesses in connection with the complaint and would have come to the conclusion. However, in the present case, without even examining the witnesses mentioned in the list in the complaint, the learned Magistrate simply dismissed the petition. Therefore, for the reasons stated, this court is of the view that the impugned order is liable to be set aside.

6. Accordingly, the impugned order passed by the Magistrate is set aside and the Magistrate is directed to summon all the witnesses mentioned in the complaint and examine the witnesses and after examining, the learned Magistrate is directed to pass orders in accordance with law.

7. With the above direction, this Criminal Revision case is disposed of.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

mpa

To

1. The Sub Inspector of Police,
Thevoor Police Station,
Salem District.

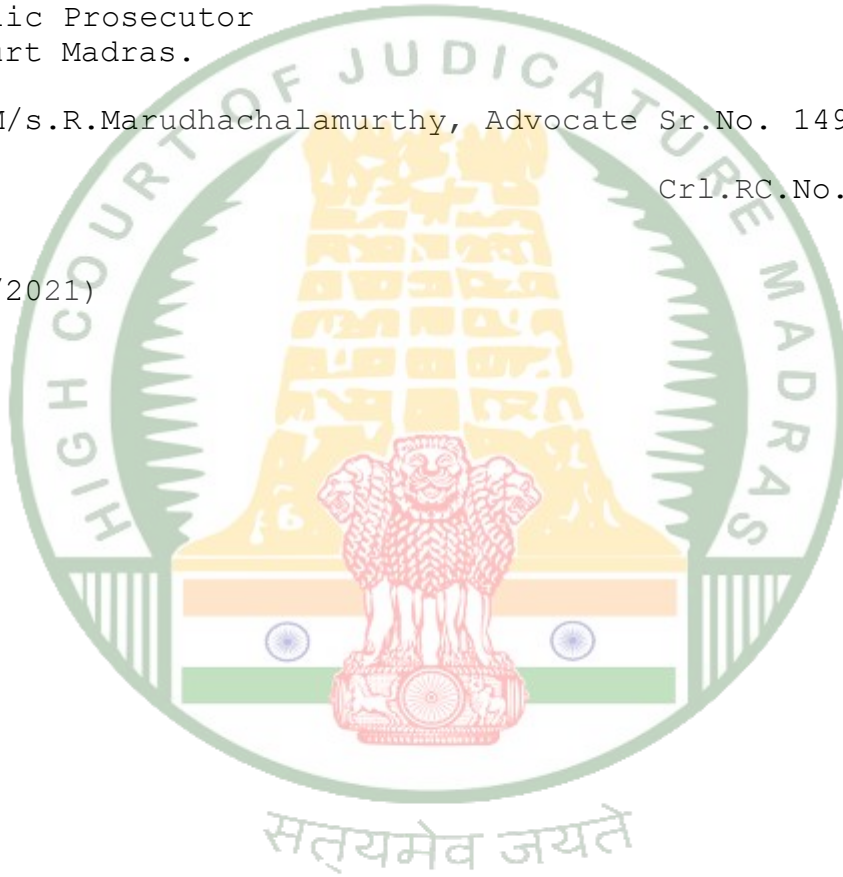
2.The Judicial Magistrate No.I, Sankari.

3.The Public Prosecutor
High Court Madras.

+1 cc to M/s.R.Marudhachalamurthy, Advocate Sr.No. 14913

Cr1.RC.No.138 of 2021

JP (CO)
RMP (29/03/2021)



WEB COPY