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IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON: 30.09.2021
ORDERS PRONOUNCED ON : 22.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CRL.R.C.NO.342 OF 2018

S.Sandeep Kumar

....Petitioner

..Vs..

1.State of Tamil Nadu rep by its
Inspector of Police (Law&Order),
H-5, Police Station,
New Washermenpet,
Chennai - 600 081.

2.Mr.Thomsan Xavier,
Now Inspector of Police [Crime]
G-7, Chetpet Police Station,
Chennai.

3.Mr.Mani,
Constable,
N-4, Fishing Harbour Police Station,
Chennai.

...Respondents

PRAYER : Criminal Revision Case filed under Section 397 r/w. 401 of Cr.P.C., to call for the records in respect of the impugned order dated 08.11.2017 in CrI.M.P.No.3584 of 2016 on the file of the XV Metropolitan Magistrate Court, George Town, Chennai and set aside the same.

For petitioner	:	Ms.Shaikh Mehrunisha
For R1	:	Mr.S.Vinothkumar
		Government Advocate (Crl.Side)
For R2	:	Mr.M.Loganathan
For R3	:	No appearance

O R D E R

The defacto-complainant is the revision petitioner herein.

2. This revision petition has been filed to call for the records in respect of the impugned order dated 08.11.2017 in CrI.M.P.No.3584 of 2016 on the file of the XV Metropolitan Magistrate Court, George Town, Chennai and to set aside the same.



3. The private complaint was filed against the order refusing to register the F.I.R. Thereafter, an F.I.R was registered and after enquiry, referred charge sheet was also filed. On receipt of the final notice, the defacto-complainant filed the objection. The same was taken as Protest Petition. The present Protest Petition filed for objection is treated as a private complaint and after examination of witnesses, the learned Magistrate has dismissed CrI.M.P.No.3584 of 2016 and hence the revision.

4. The learned counsel for the revision petitioner contended that:

(i) The learned Magistrate ought to have been taken the complaint on file in respect of offences under Sections 324, 323, 506 (ii) and 294 (b) I.P.C and issued summons on account of the fact that witnesses have testified the occurrence and commission of the offences by the Police Officer.

(ii) The reason assigned by the learned Metropolitan Magistrate is that no person by name Mani, namely third respondent was employed in Police Station at that relevant point of time.

5. The learned Government Advocate (Crl.side) drew my attention to Page Number 56 of the typed set of papers and made submission that there is no person in the said name either in the youth police called 'youth Brigade' or in the friends of Police and drawn my attention to the letter given by the learned Assistant Commissioner of Police in the rank of Deputy Superintendent of Police to that effect.

6. In reply, Ms.Sheik Mehrunisha, learned counsel for the revision petitioner contended that the Doctor who had initially examined the de-facto complainant at Stanley Medical College Hospital, had noted the injury and thereafter, he was taken to Cuddalore prison. After getting bail, immediately after the order of bail, he filed the present petition and hence a closure report was filed by the police, which is re-handed action of the police.

7. Heard both sides and perused the records.

8. The records reveal that the sum and substance of the private complaint in CrI.M.P.No.3584 of 2016 is that on 07.07.2015 in connection with the complaint given on 07.07.2015, while the defacto-complainant had parked his two wheeler TN 03 M 0974 at about 08.00 p.m on 06.07.2015 near a tea shop he was having a mutton soup. At that time, the Inspector of Police Crime Branch N4-Police Station came in a Jeep along with Mani police and thereafter Mani told that since Inspector of Police is coming, he should not sit in the two wheeler and they have to stand. At this juncture, the defacto complainant is said to have



uttered 'எந்த அய்யா வருகிறார்' and in continuation of the said conversation, the inspector of police, the first respondent, had obscene words and also asked the Constable-Mani to bring the police Lathi from the van and with police Lathi, the Inspector gave two beats slab on the left hand side of the body and also on the thigh and unbearable of the pain, the defacto-complainant fell down and thereafter, the constable-Mani with the lathi has beaten 3 times, thereby, he suffered injury on the left chest and thereafter, both the Inspector-R1 and Constable/R3 have criminally intimidated that if the private complaint or any complaint is given, the entire family will be put to jail on false case. Since, no F.I.R was filed, he filed an application in M.P.No.2700 of 2015 under Section 156 (3) C.P.C whereby, the learned Magistrate has directed H-5 Police Station to register the complaint. Initially, there was a refusal, subsequently F.I.R was registered in Crime No.670/2016 for alleged offences under Sections 294 (b), 324, 506 (ii) I.P.C. Subsequently, they filed referred charge sheet alleging that no such person had existed in that post on the respective days.

9. Against the negative report, Protest Petition has been filed by the private complainant and the same was treated as a private complaint and after recording the evidence, the same was dismissed under Section 203 of Cr.P.C.

10. From the impugned order, I find that, based upon the communication received from the Assistant Commissioner that on alleged day 06.07.2015, no person by name Mani had worked either in front of police or as a Police Constable and taking note of the statement of the witnesses recorded under Section 161 (3) Cr.P.C., he had chosen to accept the negative report.

11. On a perusal of the report sent by the Assistant Superintendent of Police, it reflects that no such person in the name of Mani was either in Youth Bregade or in friends of the police, assumes significance.

12. On a perusal of the medical evidence of Doctor who had given Wound Certificate to the effect that there is no contusion or tenderness and there is no clinical evidence of injury or any bone injury.

13. After perusing the medical evidence of Doctor and also the records letter sent by the Deputy Superintendent of Police, I find that the order passed by the learned Magistrate cannot be faulted and the same does not suffer from any irregularity or illegality warranting interference in this revision petition. In the absence of any perverse in finding, this Criminal Revision Petition is liable to be dismissed.



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14. Accordingly, this Criminal Revision Petition is dismissed.

Sd/-
Assistant Registrar

// True Copy //

Sub Assistant Registrar

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To

- 1.The XV Metropolitan Magistrate Court,
George Town, Chennai
- 2.The Inspector of Police (Law&Order),
H-5, Police Station,
New Washermenpet,
Chennai - 600 081.
- 3.Mr.Thomsan Xavier,
Now Inspector of Police [Crime]
G-7, Chetpet Police Station, Chennai.
- 4.Mr.Mani,
Constable,
N-4, Fishing Harbour Police Station,
Chennai.
- 5.The Public Prosecutor,
High Court of Madras,
Madras.

Cr1.R.C.No.342 of 2018

KSM(CO)
RVM(02/11/2021)