

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 20.10.2021

PRONOUNCED ON : 27.10.2021

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

CRL.R.C.No.637 of 2021

&

Crl.M.P.No.10498 of 2021

Rajesh Das

S/o, Pranabandhu Das

... Petitioner/Accused

Versus

State of Tamil Nadu Rep by
The Superintendent of Police - II,
Crime Branch CID,
Pantheon Road,
Egmore,
Chennai - 600 008.

... Respondent/Complainant

PRAYER: Criminal Revision Petition filed under Section 397 r/w Section 401 of the Code of Criminal Procedure, to call for the records of the order dated 04.10.2021 in Crl.M.P.No.169 of 2021 in C.C.No.231 of 2021 on the file of the Chief Judicial Magistrate, Villupuram and set aside the same.

For Petitioner : Mr.S.Elambarathi
for M/s.M.Vijayamehanath

For Respondent : Mr.Hasan Mohammed Jinnah
State Public Prosecutor

ORDER

This Criminal Revision Petition has been filed to call for the records of the order dated 04.10.2021 in Crl.M.P.No.169 of 2021 in C.C.No.231 of 2021 on the file of the Chief Judicial Magistrate, Villupuram and set aside the same.

2. The respondent police registered a case against the petitioner and yet another in Crime No.1 of 2021 for the offence under section 354(A) (2), 341, 506(i) IPC and Section 4 of Tamilnadu Prohibition of Harassment of Women Act. After completing investigation, laid a charge sheet before the Chief

Judicial Magistrate, Villupuram. The learned Chief Judicial Magistrate taken cognizance of the case in C.C.No.321 of 2021. During pendency of C.C.No.321 of 2021, the petitioner herein filed the petition in CrI.M.P.No.169 of 2021 before the Chief Judicial Magistrate, under section 322 Cr.P.C., to refer the said case from the file of the Chief Judicial Magistrate Court, Villupuram to the file of the concerned Magistrate Court, which is having the territorial jurisdiction, as per the provisions of Code of Criminal Procedure. The learned Chief Judicial Magistrate, has taken the petition on file in CrI.M.P.No.169 of 2021 and after hearing the parties and perused the materials, dismissed the petition. Challenging the said order passed by the Chief Judicial Magistrate in CrI.M.P.No.169 of 2021, the petitioner filed the present Revision Case, before this Court.

3. The learned counsel for the petitioner would submit that the respondent police filed F.I.R as well as the charge sheet before the Chief Judicial Magistrate, Villupuram. The learned Chief Judicial Magistrate does not have the jurisdiction to deal with the case as per law. The stand taken by the respondent before the Chief Judicial Magistrate Court, Villupuram was based on the circular issued by this Court in ROC.No.2250/2009/G4 dated 06.05.2010 and the learned Chief Judicial Magistrate, Villupuram has issued a notification dated 05.07.2010 under section 14(1) of Cr.P.C and assumed jurisdiction for all CBCID matters in the district of Villupuram.

4. The learned counsel for the petitioner would further submit that it was brought notice of the learned Chief Judicial Magistrate, Villupuram that the powers and jurisdiction of the Judicial Magistrate having local jurisdiction, cannot be usurped by any circular or any notification issued in pursuance of circular as per the law laid down in Karuupa Gounder & Others Vs. D.Sekar reported in 2012 (3) CTC Page No.379. Further, he would submit that the alleged offences have taken place between Namakkal to Ulundurpet and the alleged offence was occurred and completed in Ulundurpet. Likewise the second part of the alleged offence occurred and was completed in Chengalpet Toll. F.I.R as well as final report ought to have been filed either before the Judicial Magistrate, Namakkal or Ulundurpet or Chengalpet and under no circumstances, it could be filed before the learned Chief Judicial Magistrate, Villupuram and as such, the entire proceedings are vitiated. He further submitted that the learned Chief Judicial Magistrate, Villupuram without considering the contents put forth on merit, dismissed the petition by an order dated 04.10.2021, which is not in accordance with law. Therefore, he has filed the present Revision Case, before this Court.

5. The learned State Public Prosecutor would submit that in all the cases which were investigated by the CBCID, charge sheet would be filed before the Chief Judicial Magistrate of the respective districts and as per the order of this Court in R.O.C.No.2250/2009/G4 dated 06.05.2010, the Chief Judicial Magistrate Court, Villupuram has been designated to exercise all or any of the powers of the Magistrate of First Class, under Section 14(1) of Code of Criminal Procedure 1973 to deal with the cases registered under CBCID cases. The place of occurrence falls under the jurisdiction of Chief Judicial Magistrate, Villupuram. Since the Chief Judicial Magistrate, Villupuram is a designated Court for the cases registered by the Crime Branch, CBCID Villupuram, the Chief Judicial Magistrate has got the jurisdiction to take the cognizance of the cases filed by the respondent police. The Citations referred to by the learned counsel for the petitioner is not applicable to the present case at hand. The abovesaid R.O.C is still in force. Therefore, the contention raised by the learned counsel for the petitioner is not legally tenable. Further, the said notification was published in the Gazette and from the date of publication, in all the cases registered by the Crime Branch (CBCID) in Tamilnadu, they filed the charge sheet before the Chief Judicial Magistrate in the respective districts and the Chief Judicial Magistrate alone try the cases and dispose of the same in accordance with law. In order to protract the case, the petitioner has filed the petition under Section 322 Code of Criminal Procedure, before the Chief Judicial Magistrate, Villupuram in CrI.M.P.No.169 of 2021 to refer the case to the Magistrate of Ulundurpet or Kallakurichi or Namakkal. Even in the order passed in suo motu W.P.No.6591 of 2021 in para 6 of the said order dated 02.08.2021, this Court clearly referred that the charge sheet has already been filed before the Chief Judicial Magistrate, Villupuram and directed to expedite the case and also it observed that the order passed at various stages in the Writ Petition, including the order passed on 02.08.2021, will not have any bearing on the learned Chief Judicial Magistrate, Villupuram, while deciding the case on its own merits and in accordance with law and in para 7 and 8 of the order referred to the decision of the Hon'ble Supreme Court in Vinod Kumar Vs. State of Punjab reported in 2015(1) MLJ (Criminal) 288 (SC) and also directed to proceed the case in day-to-day basis and dispose of the case within three months and posted for compliance of the report on 23.12.2021.

6. The petitioner filed the S.L.P (Criminal) Diary No.18070 of 2021 before the Hon'ble Supreme Court challenging the orders of this Court in W.P.No.6591 of 2021, wherein, the Hon'ble Supreme Court issued the following directions:

(a) Paragraphs 7 and 8 of the order dated 02.08.2021 shall stand expunged.

(b) The matter shall be considered by the concerned Court, purely on its own merits without being influenced in any manner by any of the aforesaid orders dated 01.03.2021, 12.03.2021, 16.03.2021, 23.03.2021, 30.04.2021, 18.06.2021 and 02.08.2021 passed by the High Court.

(c) As observed by the High court in its order dated 23.03.2021, no interference at any juncture was caused by the accused and, as such, there would not be any apprehension of any interference or influence being exerted by the petitioner.

(d) It is made clear that the charges may be framed by the concerned Court in accordance with law and not purely as a result of the directions issued by the High Court in paragraph 7 of the order dated 02.08.2021.

Therefore, the matter pending before the jurisdiction of the Chief Judicial Magistrate, Villupuram was not challenged in the S.L.P and though, the counsel for the S.L.P stated that para 7 and 8 of the order of this Court in W.P.No.6591 of 2021 dated 02.08.2021 may need appropriate correction, the Hon'ble Supreme Court expunged only paras 7 and 8 of the abovesaid order and they have not stated anything about para 6 of the said order and the competency of the jurisdiction of the Chief Judicial Magistrate, Villupuram and therefore, there is no merit in the Criminal Revision Petition and the same is liable to be dismissed.

7. Heard the learned counsel appearing for the petitioner and the learned State Public Prosecutor appearing for the respondent and perused the records.

8. Admittedly, the respondent police registered a case against the petitioner and yet another for the offence under section 354(A) (2), 341, 506(i) IPC and Section 4 of Tamilnadu Prohibition of Harassment of Woman Act, in Crime No.1 of 2021. After completing investigation, laid a charge sheet before the Chief Judicial Magistrate, Villupuram. The learned Chief Judicial Magistrate taken the charge sheet on file in C.C.No.321 of 2021.

9. In the abovesaid case, the petitioner has been arrayed as A1 and he filed the petition before the Chief Judicial Magistrate, Villupuram under section 322 Cr.P.C., to refer the case to the jurisdictional Magistrate and according to the petitioner, the Chief Judicial Magistrate, Villupuram does not have any jurisdiction to take cognizance of the charge sheet and to try the case. The learned Chief Judicial Magistrate dismissed the same. Challenging the said order, the petitioner has come before this Court.

10. The main contention raised by the learned counsel for the petitioner is that the occurrence is said to have taken place between Namakkal and Chegalpattu. The Magistrate of either Namakkal, Kallakurichi, Ulundurpet or Chengallpattu, has the jurisdiction to take the cognizance of the case. Since the Chief Judicial Magistrate is not competent to take cognizance of the case, he would have forwarded the charge sheet to any one of the jurisdictional Magistrates or even after taking cognizance, he should have referred the case to any of the jurisdictional Magistrates. Though the Chief Judicial Magistrate referred to the ROC.No.2250 of 2009/G4 dated 06.05.2010 and the subsequent Notification dated 05.07.2010 stated that the Chief Judicial Magistrate has got jurisdiction. The learned counsel for the petitioner would submit that the conferment of jurisdiction by the Chief Judicial Magistrate as per the abovesaid ROC is against law as laid down by the decision of this Court in Karuupa Gounder & Others Vs. D.Sekar reported in 2012 (3) CTC Page No.379. On a reading of the said decision referred to by the learned counsel for the petitioner, this Court in Para 6 of the said judgment, extracted the said circular dated 22.05.2003. In the said circular, it is mentioned that all the private complaints against the police person be filed before the Court of Chief Judicial Magistrate and only the Chief Judicial Magistrate concerned shall take cognizance of the matter and dispose of the same as per the provisions laid down therefor. Where as ROC.No.2250/2009/G4 dated 06.05.2010 reads as follows:

The Courts mentioned in the Annexure are earmarked for the trial of CBCID cases for the entire district along with the regular work.

The Chief Metropolitan Magistrate, Chennai and all the Chief/Judicial Magistrates are hereby directed to take necessary steps to publish the notification u/w.14 (1) and 16(3) of the Code of Criminal Procedure in the District Gazette along with the existing jurisdiction under mentioned to the Registry.

11. As stated by the learned Public Prosecutor, the said ROC, has not been challenged in any of the proceedings or quashed so far. Further, even on the date of passing of the order in the case referred to by the learned counsel for the petitioner in the case in Karuupa Gounder Vs. D.Sekar reported in 2012 (3) CTC Page No.379, the said ROC No.2250/2009/G4 dated 06.05.2010 was in force. This Court has not quashed the said R.O.C. Dated 06.05.2010

12. If any complaint is lodged before the CBCID, after registering F.I.R and completing investigation, it can file the Charge Sheet only before the Chief Judicial Magistrate as per the abovesaid ROC.2250/2009/G4. Conferment of power of the Chief judicial Magistrate has been given and the Chief Judicial Magistrate has been designated to take the cognizance of the charge sheet filed by the CBCID. The part of the cause of action falls within Villupuram District and the same is admitted by the petitioner. Since Ulundhurpet and Kallakurichi falls under the judicial district of Villupuram and the charge sheet was filed by the CBCID before the Chief Judicial Magistrate, Villupuram, the Chief Judicial Magistrate, Villupuram has taken the charge sheet on file and proceeded further. In the meanwhile, the petitioner filed the S.L.P before the Hon'ble Supreme Court, challenging the order passed in various dates in W.P.No.6591 of 2021 on the file of this Court in suo motu Writ Petition. In para 6 of the order dated 02.08.2021 of this Court has clearly observed that the Chief Judicial Magistrate, Villupuram has taken cognizance of the case and taken the charge sheet on file in C.C.No.231 of 2021 on 29.07.2021. In para 6 also stated that the Chief Judicial Magistrate will not have any bearing on the order passed at various stages in the writ petition including the order dated 02.08.2021 while deciding the case on its own merits and in accordance with law.

13. The jurisdiction of the Chief Judicial Magistrate was not challenged before the Hon'ble Supreme Court in the said S.L.P. They were very well aware of the fact that the Chief Judicial Magistrate, Villupuram has got the jurisdiction. Therefore, they have not challenged the same and subsequently after the disposal of the S.L.P and in order to protract the case, the petitioner invoking section 322 Cr.P.C filed the petition before the Chief Judicial Magistrate, Villupuram, to refer the matter to the file of the concerned Magistrate Court which is having Territorial jurisdiction.

14. Considering the facts and circumstances of the abovesaid case, this Court does not find any perversity in the order passed by the Chief Judicial Magistrate, Villupuram. The petitioner at any point of time, in earlier occasion, has not challenged the power of CBCID to investigate the matter. As per the ROC.No.22250/2009/G4, the Chief Judicial Magistrate, Villupuram has got jurisdiction to proceed with the case in C.C.No.231 of 2021 and the said ROC is not violating any statutory provisions. However, no prejudice would be caused to the petitioner.

15. Under these circumstances, this Court finds that there is no merit in the revision and the same is liable to be dismissed. Accordingly, the Criminal Revision Case is dismissed. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

MFA

To

1. The Chief Judicial Magistrate,
Villupuram.
2. The Superintendent of Police - II,
Crime Branch CID, Pantheon Road,
Egmore, Chennai - 600 008.
3. The Public Prosecutor,
High Court of Madras.

Order in
CRL.R.C.No.637 of 2021 &
Crl.M.P.No.10498 of 2021

AK-II(CO)
TE (27/10/2021)