



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 05.08.2021
PRONOUNCED ON : 19.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

Crl.R.C.No.1500 of 2017

1.Dr.Soorya

2.Sridhar

... Petitioners/Accused 3 & 4

Vs.

1. The State represented by,
The Inspector of Police,
Palur Police Station,
Kancheepuram District.
(Crime No.141 of 2014)

... 1st Respondent/Complainant

2. Rajendiran

3. Sri Raman

... Respondents 2 & 3/
Defacto complainants

Prayer: This Criminal Revision Case has been filed under Section 397 read with Section 401 of Cr.P.C., to set aside the order dated 31.10.2017, in CMP.No.909 of 2015 in C.C.No.371 of 2014, passed by the learned Judicial Magistrate No.1, Chengleput.

For Petitioners : Mr.K.M.Balaaaji

For R1 : Mr.R.Vinoth Raja
Government Advocate

For R2 & R3 : Mr.N.S.Amarnath

JUDGMENT

(The case has been heard through Video Conference)

The newly added accused in C.C.No.371 of 2014 are the revision petitioners herein.

2.The second respondent herein filed a complaint before the respondent police in Crime No.141 of 2014, alleging for the offence under Sections 294(b), 324, 506(ii) of IPC. After investigation, the first respondent herein/Inspector of Police, Palur Police Station, has filed a final report in Crime No.141/2014, wherein, the name of the present petitioners have



been deleted and the final report is taken on file in C.C.No.371 of 2014 before the learned Judicial Magistrate No.I, Chengalpattu.

3. During the pendency of above said C.C.No.371 of 2014, the defacto complainant has filed a petition in C.M.P.No.909 of 2015, before the learned Judicial Magistrate No.I, Chengalpattu, under Section 319 of Cr.P.C., to add the revision petitioners as accused Nos.3 and 4. Since, the petition was not disposed of, the second respondent herein has filed a petition in CrI.O.P.No.18735 of 2015, before this Court, by an order dated 28.07.2015, this Court has directed the learned Judicial Magistrate No.I, Chengalpet to take this petition on file and to treat the same as protest petition.

4. Pursuant to the order passed by this Court, the learned Judicial Magistrate, has allowed the application filed by the defacto complainant and ordered issuance of summons to the newly added parties viz., A3 and A4. Hence, the criminal revision case.

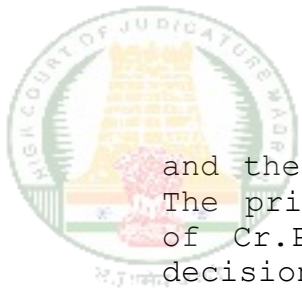
5. Heard the respective counsels and perused the materials placed on record.

6. The present application has been filed by the new added parties/Accused A3 and A4 on the said receipt of the summons in C.C.No.371 of 2014, the summons to the proposed parties were issued pursuant to the orders passed by the learned Judicial Magistrate No.I, Chengalpattu, on 31.10.2017 in CMP.No.909 of 2015 filed under Section 319 of Cr.P.C to include the deleted accused viz., A3 and A4, whose names were already mentioned in the FIR and in the complaint of the private complainant.

7. On a perusal of the records, it reveals the fact that based upon the complaint given by one Rajendran, on 16.04.2014 the first respondent viz., the respondent police, has registered a case in Crime No.141 of 2014, for the offence under Section 294(b), 324, 506(ii) of IPC against the accused viz., Karvannan, Vinayagamoorthy, Shreedhar & Suriya. Accordingly, the learned Magistrate has thought it fit to allow the application under Section 319 of Cr.P.C and directed for issuance of summons to the newly added accused viz., A3 and A4/revision petitioners herein.

8. Heard both sides.

9. After completion of investigation, it appears that the respondent police have filed a final report only against the accused viz., Karvannan, Vinayagamoorthy but not against Shreedhar & Suriya and they were left out in the final report



and the matter is posted before the concerned Magistrate Court. The private complainant has filed a petition under Section 319 of Cr.P.C in stead of protest petition and relied upon the decision laid down in the case of Bhagwant Singh Vs. Commissioner of Police and another AIR 1985 SC 1285. Since the petition is filed under Section 319 of Cr.P.C is kept pending, this Court by an order dated 28.07.2015 in CMP.No.18735 of 2015 has directed the learned Judicial Magistrate No.I, Chengalpet, to treat this petition as protest petition and to deal with the application accordingly. Further, it appears that the learned Magistrate after giving notice to the learned Public Prosecutor, has come to the conclusion that at the time of giving the complaint four accused names were mentioned in the FIR, however, police have filed charge sheet only against A1 and A2 and dropped the names of A3 and A4 in the final report.

11. In a petition filed for inclusion or addition of accused for the offence under Section 319 of Cr.P.C., the Court shall bear in mind that:

(a) "inquiry" means every inquiry, other than trial, conducted under this Code by a Magistrate or Court".

(b) In my view, the "stage of inquiry" does not contemplate any evidence in its strict legal sense. In as much as the stage for evidence, has not yet arrived. The only material that the Court has before it, is the material collected by the prosecution and the Court, at this stage, prima facie can apply its mind to find out as to, whether a person, who can be an accused, has been erroneously omitted from being arraigned or has been deliberately excluded by the prosecuting agency.

(c) What is essential for the purpose of the section is that there should be some evidence against a person who was not proceeded against while the stage of the proceedings is irrelevant. Where the complainant is circumspect in proceedings against several persons, but if the Court is of the opinion that there appears to be some evidence pointing to the complicity of some other persons as well, Section 319 of Cr.P.C acts as an empowering provision enabling the Court/Magistrate to initiate proceedings against such other persons.

(d) The purpose of Section 319 of Cr.P.C is to do complete justice and to ensure that persons who ought to have been tried as well are also tried."

12. In the instance case, list witnesses: Rajendran and Sriaman in their statements have stated about the complicity of these added accused and the reason assigned by I.O., to drop these accused are that due to previous enmity and pendency of civil dispute. The motive for the commission of the crime is previous enmity. The same is double edged weapon. Taking into statement of above stated list witnesses and connected material,



I find that the order passed by the learned Magistrate cannot be found fault with.

13. The "word at any time of the proceedings", in Section 319 of the Cr.P.C., shall cover the entire prospects of this Case and hence, this Court is of the considered view that the order passed by the learned Judicial Magistrate, Chengalpettu, does not suffer from any illegality or irregularity, warranting interference.

14. In this view of the matter, this Criminal Revision Case stands dismissed. The learned Magistrate is directed to dispose of the main case within a period of twelve weeks from the date of receipt of a copy of this order. The revision petitioners/A3 & A4 herein are directed to face the trial and prove their innocence in the manner known to law.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To:

1. The Judicial Magistrate No.1,
Chengleput.
2. -do- through Chief Judicial Magistrate,
Chengleput.
3. The Inspector of Police,
Palur Police Station,
Kancheepuram District.
4. The Public Prosecutor,
High Court, Madras.

+1CC to Mr.K.M.Balaji, Advocate, Sr.No.41699

Pre-delivery judgment made in
CrI.R.C.No.1500 of 2017

SRA (CO)
K.RK. (12.10.2021)