



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2021

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CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.1021 of 2019

and

Crl.M.P.No.14164 of 2019

K.S.Jagannathan

...petitioner

Vs

1.Nagaraj

2.P.V.Ravi

Advocate

3.Thangavathana Balakrishnan,

Advocate

...Respondents

Prayer: Criminal Revision is filed Under Section 397 and 401 of Code of Criminal Procedure Code praying to call for the entire records in connection with the Crl.M.P.No.3629 of 2017 in Crl.M.P.No.2672 of 2017 in C.C.No.46 of 2008 dated 17.07.2019 on the files of the Learned Judicial Magistrate-I, Dharmapuri and set aside the same and direct the respondents 2 and 3 to appear before the Learned Judicial Magistrate-1, Dharmapuri in Crl.M.P.No.2672 of 2017 in C.C.No.46 of 2008 dated 17.07.2019.

For Petitioner : Mr.V.Parthiban
for M/s.A.Ilayaperumal

For Respondent-2 : M/s.M.Rakhi
For Respondent-3 : M/s.M.Ezhilarasi

ORDER

(The case has been heard through video conference)

These Criminal Revision cases have been filed against the order dated 17.07.2019 passed in Crl.M.P.No.3629 of 2017 in Crl.M.P.No.2672 of 2017 in C.C.No.46 of 2008 by the learned



Judicial Magistrate-I, Dharmapuri and set aside the same and consequently, direct the respondents 2 and 3 to appear before the Learned Judicial Magistrate-I, Dharmapuri.

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2. The petitioner is the defacto complainant. Based on his complaint, a case in Crime No.4 of 2007 was registered against the first respondent herein and others for the offence under Section 419, 420, 120b, 468 and 471 IPC. After completing the investigation, the charge sheet was filed before the learned Judicial Magistrate-I, Dharmapuri, and the same was taken on file in C.C.No.46 of 2008. After completion of trial and on hearing the arguments advanced on either side, the learned Magistrate found the accused guilty for the offences under Sections 419, 468 and 471 IPC and convicted all the accused. Against the order of conviction and sentence, A1, A3 and A4 filed an appeal before the Sessions Court in which, the appellate Court acquitted all the other accused except A1/the first respondent herein and confirmed the conviction for the offence under Section 419 IPC and sentenced to undergo rigorous imprisonment for a period of three years with fine of Rs.5000/-, in default, to undergo simple imprisonment for a further period of one month. Subsequently, when the 1st respondent was arrested and produced before the learned Magistrate based on the Non Bailable Warrant, the 1st respondent filed a memo containing false informations stating that he has filed an appeal, which is at SR stage before this Court and the same is likely to be posted on 04.01.2016 and hence, the learned Magistrate granted time for the 1st respondent/accused. Only thereafter, the 1st respondent has filed a revision before this Court along with a petition seeking bail and bail was also granted on certain conditions.

3. Hence, the petitioner had filed a miscellaneous petition in C.M.P.No.2672 of 2017 seeking to arrest the first respondent/A1 for not complying the conditions imposed by this Court, while granting bail and also for filing of the memo containing false informations. Subsequently, the petitioner had also filed a miscellaneous petition in C.M.P.No.3629 of 2017 seeking to implead the 2nd and 3rd respondents, who are Advocates and to convict them for aiding the first respondent to file the memo containing false informations. The learned Judicial Magistrate No.I, Dharmapuri, after considering the above petition, by order dated 17.07.2019, dismissed the said



petition, against which, the petitioner is now before this Court with the present revision.

4. According to the petitioner, the respondents colluded with each other and misguided the Court and later got bail. Therefore, the petition was filed against the 1st respondent under Section 195 Cr.P.C. in C.M.P.No.2672 of 2017 seeking to arrest the 1st respondent for filing a false memo before the trial Court. Since, the 2nd and 3rd respondents colluded with the 1st respondent/A1 and they also dealt along with the 1st respondent/A1, the 2nd and 3rd respondents have to be impleaded as respondents 2 and 3 in the above miscellaneous petition. Therefore the petitioner also filed a miscellaneous petition before the trial Court in C.M.P.No.3629 of 2017 seeking to implead the 2nd and 3rd respondents and to arrest them also. The learned Magistrate, without considering the above fact and the reason to implead the 2nd and 3rd respondents, has passed an impugned order dismissing the petition. Therefore, the learned counsel prays to set aside the impugned order and to allow the revision.

5. The learned Counsel for the 2nd respondent would submit that even according to the petitioner, the 1st respondent was convicted by the trial Court against which, the 1st respondent preferred an appeal and the appellate Court dismissed the appeal and confirmed the conviction against the 1st respondent/A1 for the offence under Section 419 IPC by Judgment dated 16.10.2015. He would further submit that only on the instructions of the 1st respondent, he had filed a Memo dated 28.12.2015 before the Magistrate stating that a Revision Petition has been filed before this Court and the same is at SR stage. Even otherwise, the learned Magistrate had granted only time till 16.01.2016 by its order dated 28.12.2015 since because the period of 90 days from the date of Judgment in CrI.A.No.19 of 2014 was not expired for filing appeal and not based on the said Memo. In order to harass the Counsels who appeared for his opponents, the petitioner has filed the present petition before this Court.

6. The learned Counsel for the 3rd respondent would submit that he was the Counsel for the 1st respondent before this Court and on the instructions of the 1st respondent, he filed a Criminal Revision Petition before this Court and obtained an



order for suspension of sentence. Other than that, he has no role to play in filing of the said memo with incorrect details before the learned Judicial Magistrate.

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7. Heard Mr.Parthiban, the learned counsel for the petitioner and the learned counsels appeared for the 2nd and 3rd respondents. Even though notice has been served to the 1st respondent and his name is also printed in the cause list, none appeared for the first respondent.

8. Admittedly, the 2nd respondent is the counsel appeared before the trial Court and the 3rd respondent is the counsel in the revision filed against the Judgment of conviction filed before this Court for the 1st respondent/A1. It is seen that the fact remains that the S.R. Number mentioned in the Memo dated 28.12.2015 has been filed by the 1st respondent/A1 before the Magistrate with incorrect and false informations in order to escape from the arrest

9. Accordingly, the impugned order passed by the learned Judicial Magistrate No.I, Dharmapuri, in C.M.P.No.3629 of 2017 dated 17.07.2019 is hereby set aside.

10. The learned Magistrate is directed to implead the 2nd and 3rd respondents in the C.M.P.No.2672 of 2017 and since, the same is pending from the year 2017, the learned Magistrate is directed to dispose of the petition in accordance with law within a period of 2 months from the date of receipt of copy of this order.

11. With the above direction, this Criminal revision case is allowed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar

ksa2/dsn



To

The Judicial Magistrate-I,
Dharmapuri.

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+1CC to Mr.A.Ilayaperumal, Advocate, SR.No. 48906

+1CC to M/s.M.Ezhilarasi, Advocate, SR.No. 48657

CrI.R.C.No. 1021 of 2019
and

CrI.M.P.No. 14164 of 2019

KSM(CO)

B.VC (01/11/2021)