



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : 25.03.2021

Delivered On : 09.04.2021

CORAM

WEB COPY

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.23 of 2021

and Crl.M.P.(MD)No.352 of 2021

Murugeshwari @ Yogeswari .. Petitioner/2nd Accused
Vs.

1.The State Rep. By,
Inspector of Police,
Keelathuval Police Station,
Muthukalathur Taluk,
Ramanathapuram District. ... 1st Respondent/Respondent/
Complainant

2.Arumugam .. 2nd Respondent/Petitioner/
Defacto Complainant

Prayer : This criminal revision case is filed under Sections 397 and 401 of Cr.P.C., to set aside the order dated 23.03.2020 passed in Cr.M.P.No.2729 of 2018 in S.T.C.No.76 of 2020 on the file of the learned Judicial Magistrate, Mudukalathur.

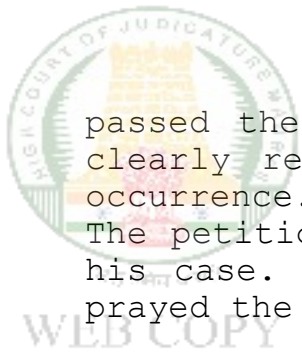
For Petitioner	: Mr.K.Yasar Arafath
For 1 st Respondent	: Mrs.S.Bharathi, Government Advocate
For 2 nd Respondent	: Mr.K.C.Ramalingam

ORDER

This petition has been filed against the order passed in Cr.M.P.No.2729 of 2018 dated 23.03.2020, on the file of the learned Judicial Magistrate, Mudukalathur.

2.The petitioner is A2 in a case registered as Crime No.6 of 2018 and the same was taken up as S.T.C.No.76 of 2020. The second respondent is the defacto complainant. The defacto complainant has filed a protest petition in Crl.M.P.No.2729 of 2018 against the chargesheet filed in S.T.C.No.76 of 2020. The learned Judicial Magistrate, Mudukalathur allowed the petition and ordered to issue summons to A2 to A4 and permit the prosecution to file a petition under Section 311 of Cr.P.C. Against that order, the petitioner has preferred this Criminal Revision Case.

3.On the side of the petitioner, it is stated that the petitioner was not available in the place of occurrence. Without issuing notice to the petitioner, the learned Judicial Magistrate



passed the impugned order. The evidence of L.W.4, L.W.5 and L.W.6 clearly reveals that the petitioner was not in the scene of the occurrence. L.W.4 to L.W.6 were cited as eye witnesses in the case. The petitioner was not given opportunity to put forth the merits of his case. Only due to previous enmity, a false case was filed and prayed the impugned order to be set aside.

4.On the side of the first respondent, it is stated that the prosecution has examined several witnesses and recorded their statements under Section 161(3) of Cr.P.C. The investigation reveals that the complainant exaggerated the occurrence and roped A2 to A4 in the case. Hence, the respondent police deleted the name of A2 to A4 and filed a report. The final report was filed against A1 under Sections 294(b) and 323 of IPC on 15.02.2018. Aggrieved over the report, the defacto complainant filed a protest petition and the same was allowed by the learned Magistrate and has ordered issuance of summons to A2 to A4.

5.On the side of the second respondent, it is stated that the petitioner is one of the accused in the case. Though FIR was filed against four persons, chargesheet was filed only against one person. The prosecution has deleted A2 to A4. The protest petition filed by the defacto complainant was allowed by the learned Judicial Magistrate and prayed the revision to be dismissed.

6.It is seen that the name of the petitioners were mentioned in the FIR. There were specific overt act against the petitioner mentioned in the FIR. The allegation of the defacto complainant is that the witnesses cited by the defacto complainant were not examined by the prosecution. But mere sending summons to A2 to A4 will not serve the purpose.

7.Hence, the case is again forwarded to the first respondent for further investigation. The first respondent is hereby directed to examine the witnesses mentioned by the second respondent in the FIR and to file an altered chargesheet within a period of one month from the date of receipt of copy to this order.

8.With the above direction, this Criminal Revision Case is disposed of. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AS)

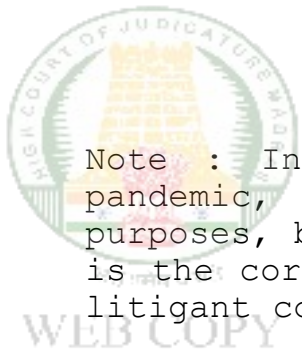
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/ /2021

Sub Assistant Registrar(CS)

Mrn

<https://hcservices.ecourts.gov.in/hcservices/>



Note : In view of the present lock down owing to COVID - 19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

- 1.The Judicial Magistrate,
Mudukalathur, Ramanathapuram.
- 2.The Inspector of Police,
Keelathuval Police Station,
Muthukalathur Taluk,
Ramanathapuram District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.K.C.RAMALINGAM, Advocate SR-15790[F] dated 15/04/2021

Crl. R.C.(MD)No.23 of 2021
09.04.2021

ES(CO)
TR(26.04.2021) 3P 5C