



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 09.02.2021

Delivered on : 11.03.2021

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.557 of 2020

WEB COPY

R.Chelladurai .. Petitioner / Defacto complainant
Vs.

1.State represented by,
The Inspector of Police,
Nagamalai Pudukottai Police Station,
Madurai District.

Crime No.105/2013

.. 1st Respondent / Complainant

2.Kasithevar

..2nd Respondent / Accused

Prayer : This Revision Case is filed under Sections 397 (1) and 401 of Cr.P.C., to call for the records and to set aside the order of the learned Judicial Magistrate No.VI, Madurai, made in C.C.No.172 of 2014, dated 05.08.2019 and to allow this Criminal Revision.

For Petitioner : Mr.V.Thirumal

For Respondents : Mrs.S.Bharathi

Government Advocate for R1

: Mr.S.Palani Velayutham for R2

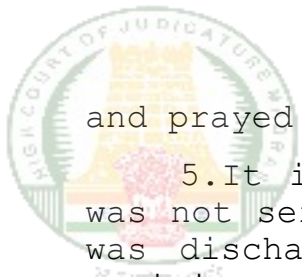
ORDER

This revision has been filed against the order passed by the Judicial Magistrate No.VI, Madurai, in C.C.No.172 of 2014, dated 05.08.2019, under Section 258 Cr.P.C.

2.On the side of the petitioner, it is stated that the revision petitioner is the Complainant in the case in Crime No.197 of 2013, under Section 304 (A) I.P.C on the side of the Sub Inspector of Police, Nagamalai Pudukkottai. Private notice in this case was served on the accused. Though the accused was residing in the same address, by colluding with the accused, the police failed to serve summons on the accused. Without recording the reasons, the Magistrate closed the case under Section 258 Cr.P.C and prayed the impugned order to be set aside.

3.On the side of the first respondent, it is stated that there is no explanation for the delay in serving summons to the second respondent.

4.On the side of the second respondent, it is stated that the second respondent was not served with summons and therefore, he was not aware of the Court proceedings in C.C.No.172 of 2014. The respondent never evaded any service of summon. It is further stated that on receipt of the notice in W.P.(MD)No.20856 of 2016, the second respondent / accused appeared before this Court and filed his counter and he cannot be penalized for the fault of the police



and prayed the petition to be dismissed.

5.It is seen that the summon to accused in C.C.No.172 of 2014 was not served by the police for five years. The second respondent was discharged under Section 258 Cr.P.C. The contention of the revision petitioner is that the procedures were not properly followed by the Judicial Magistrate in serving the summon to the second respondent / accused. It is seen that there is a writ petition pending before this Court in W.P.(MD)No.20856 of 2016 and the second respondent herein has made his appearance and filed his counter.

6.In the above circumstances, the order of the Judicial Magistrate is to be set aside. This Court directs the Judicial Magistrate No.VI, Madurai, to reopen the case in C.C.No.172 of 2014. The second respondent herein / accused is directed to appear before the Judicial Magistrate No.VI, Madurai, on 29.03.2021 and on subsequent hearing dates. The revision petitioner is directed to attend the case and the first respondent is directed to produce witnesses without any further delay. The Judicial Magistrate is directed to dispose of the case within a period of six months from the date of reopening of the case.

7. With the above direction, this Criminal Revision is disposed of.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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 No.VI,
Madurai.
2. The Inspector of Police,
Nagamalai Pudukottai Police Station,
Madurai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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



4. The Registrar Judicial,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.V.THIRUMAL, Advocate (SR-10991[F] dated 15/03/2021)

Crl. R.C.(MD)No.557 of 2020
.03.2021

SMV(CO)
KB(22.03.2021) 3P 6C