



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on: 09.12.2021

Delivered on: 14.12.2021

CORAM

THE HONOURABLE MRS.JUSTICE R.THARANI

Crl.R.C. (MD)No.201 of 2021

M.Duraipandi

... Petitioner

Vs.

1.M.Rengarajan

2.Rosilin Victoriya

3.M.Namasivayam

... Respondents

Prayer : Criminal Revision filed under Section 397 r/w 401 Cr.P.C., to set aside the order dated 12.10.2020 made in Cr.M.P.No.2750 of 2020 on the file of the Judicial Magistrate No.2, Madurai.

For Petitioner	: Mr.G.Mohan Kumar
For R1	: Mr.R.Saravanan
For R2	: Mr.T.Lajapathy Roy
For R3	: Mr.M.Venkatesan

ORDER

The petitioner herein has filed petition under Section 156(3) Cr.P.C., before the Judicial Magistrate No.II, Madurai and the said petition was rejected by the Court below. Against the rejection of the petition, the petitioner has approached this Court by way of this petition.

2.On the side of the revision petitioner it is stated that the petition was rejected by the Magistrate on the ground that the Magistrate is not having jurisdiction to take cognizance of the offence. Section 14 of SC/ST Act is relating to establishment of Special Court for speedy trial of the cases under the provisions of SC/ST Act. The jurisdiction of the Magistrate was not barred under the SC/ST Act. The Magistrate is not going to conduct the trial. The Magistrate has to refer the case to the Police and hence there is no question of jurisdiction of the Magistrate.

3.On the side of the prosecution it is stated that as per Section 154 Cr.P.C., complaint should be given only to the concerned Investigating Officer and then if no action was taken, complainant should approach the higher police officials. Only after complying with these conditions, the complainant can approach the Court under Section 156 Cr.P.C. Dispute among the Teachers regarding



association. The complainant is trying to give criminal colour to the group dispute regarding the association and hence, this petition should be dismissed.

4. On the side of the petitioner it is stated that the petitioner has filed a complaint before the Mathichiyam Police Station on 07.12.2019. Again the petitioner filed another complaint before the Commissioner of Police on 17.01.2020 and relevant documents were filed before the Judicial Magistrate and the contents of Section 156 Cr.P.C., was duly complied with by the petitioner and hence, he prayed for allowing of this petition.

5. Section 156 Cr.P.C., reads as follows:-

156. Police officer's power to investigate cognizable cases

(1) Any officer in charge of a police station may, without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XIII

(2) No proceeding of a police officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered under this section to investigate

(3) Any Magistrate empowered under section 190 may order such an investigation as above mentioned.

6. Section 190 Cr.P.C., reads as follows:-

190. Cognizance of offences by Magistrates -

(1) Subject to the provisions of this Chapter, any Magistrate of the first class, and any Magistrate of the second class specially empowered in this behalf under sub-section (2), may take cognizance of any offence-

(a) upon receiving a complaint of facts which constitute such offence;

(b) upon a police report of such facts;

(c) upon information received from any person other than a police officer, or upon his own knowledge, that such offence has been committed



(2) The Chief Judicial Magistrate may empower any Magistrate of the second class to take cognizance under sub-section (1) of such offences as are within his competence to inquire into or try

Rejection of Complaint-Law on.-If the complaint, on the face of it, does not disclose the commission of any offence, the Magistrate shall not take cognizance under section 190(1)(a) of Code of Criminal Procedure. The complaint is simply to be rejected: *Mehmood Ul Rehman V. Khazhir Mohammad Tunda A.I.R.2015 S.C.2195.*

7. Section 14 of SC/ST Act reads as follows:

14. Special Court and Exclusive Special Court-(1) For the purpose of providing for speedy trial, the State Government shall, with the concurrence of the Chief Justice of the High Court, by notification in the Official Gazette, establish an exclusive Special Court for one or more Districts:

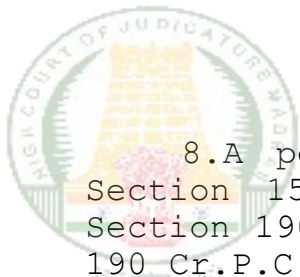
Provided that in Districts where less number of cases under this Act is recorded, the State Government shall, with the concurrence of the Chief Justice of the High Court, by notification in the Official Gazette, specify for such Districts, the Court of Session to be a Special Court to try the offences under this Act:

Provided further that the Courts so established or specified shall have power to directly take cognizance of offences under this Act.

(2) It shall be the duty of the State Government to establish adequate number of Courts to ensure that cases under this Act are disposed of within a period of two months, as far as possible.

(3) In every trial in the Special Court or the Exclusive Special Court, the proceedings shall be continued from day-to-day until all the witnesses in attendance have been examined, unless the Special Court or the Exclusive Special Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded in writing:

Provided that when the trial relates to an offence under this Act, the trial shall, as far as possible, be completed within a period of two months from the date of filing of the charge sheet.



8.A perusal of the above Sections make it clear that under Section 156(3) of Cr.P.C., a Magistrate who is empowered under Section 190 Cr.P.C., can order for an investigation. Under Section 190 Cr.P.C., a Magistrate who is competent can take cognizance of an offence. Under Section 14 of SC/ST Act, the Court established or specified shall have the power to take cognizance of the offence. In short, the Judicial Magistrate is not having the jurisdiction to order investigation.

9.In view of the same there is nothing wrong in the order passed by the Judicial Magistrate No.II, Madurai to come to a conclusion that Court has no jurisdiction to entertain the petition filed under Section 156(3) Cr.P.C.

10.At the same time, rejection order can be passed by the Judicial Magistrate only when a prima facie case is not made out by the petitioner. The Magistrate has not discussed anything regarding the facts of the case in the impugned order and hence, the rejection of the petition under Section 156(3) Cr.P.C is unwarranted. The order of the learned Judicial Magistrate No.II, Madurai is set aside. The Magistrate is directed to return the petition filed by the petitioner. The petitioner is at liberty to approach the Special Court, if he is so advised. Accordingly, this criminal revision petition is disposed of.

Sd/-

Assistant Registrar (CS III)

// True Copy //

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Sub Assistant Registrar(CS)

gns

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:: The Judicial Magistrate No.2, Madurai.

1CC TO MR. G.MOHANKUMAR, ADVOCATE SR:39167
1CC TO MR. R.SARAVANAN,ADVOCATE SR:38638
1CC TO MR. T.LAJAPATHIROY, ADVOCATE SR:38744
1CC TO MR. M.VENKATESAN, ADVOCATE SR:38749

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