



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 09.07.2021

CORAM

THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI

Crl.R.C(MD)No.369 of 2021
and
Crl.MP(MD)No.3801 of 2021

K.Sivanantham : Revision Petitioner/
Third Party/Third Party
Vs.

1.A.Sakthivel : 1st Respondent/Petitioner/
De-facto Complainant

2.State rep. by
The Sub Inspector of Police,
Thathaiyangarpettai Police Station,
Trichirappalli District. : 2nd Respondent/1st Respondent/
Complainant

3.M.Krishnan

4.K.Dhanam

5.S.Indhumathi : R3 to R5/R2 to R4/A1 to A3

Prayer: Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, against the order passed in Criminal Revision Petition No.41 of 2019, dated 31.12.2019 by the 1st Additional District and Sessions Judge (PCR), Trichirappalli and consequently summon, dated 13.03.2020 issued to the petitioner by the Judicial Magistrate, Thuraiyur, in C.C No.165 of 2011. and set aside the same.

For Petitioner : Mr.D.Shanmugaraj Sethupathi

For R1, R3 to R5 : No appearance

For 2nd Respondent : Mr.P.Kottaichamy
Government Advocate (Crl. Side)

J U D G M E N T

This Criminal Revision is directed against the order passed in Criminal Revision Petition No.41 of 2019, dated 31.12.2019 by the 1st Additional District and Sessions Judge (PCR), Trichirappalli and the consequential summon, dated 13.03.2020 issued to the petitioner by the Judicial Magistrate, Thuraiyur, in C.C No.165 of 2011.



2. According to the prosecution, on 29.05.2011 at about 1.30 pm, the accused persons trespassed into the workshop of the de-facto complainant and attacked him with iron pipe, shouting in filthy language and also with hands and sticks. On the complaint of the de-facto complainant/ 1st respondent herein, the 2nd respondent police registered a case in Crime No.116 of 2011, on 30.05.2011. Thereafter, the 2nd respondent police filed a petition under section 319 of Cr.P.C in CrI.MP No.1600 of 2019 on the file of the Judicial Magistrate, Thuraiyur, to array one Sivanandam, as accused in this case. After hearing both sides, the trial court dismissed the petition, on 11.07.2019. Aggrieved by the said order, the de-facto complainant preferred Criminal Revision in CRC No.41 of 2019 on the file of the 1st Additional District and Sessions Judge, (PCR), Tiruchirapalli. The learned Sessions Judge, allowed the revision, dated 31.12.2019 by setting aside the order, dated 11.07.2019 passed in Cr.M.P No.1600 of 2019 in C.C No.165 of 2011 on the file of the Judicial Magistrate, Thiraiyur and remitted the case back to the trial court for fresh disposal and also directed the trial court to dispose of the CrI.MP No.1600 of 2019 after issuing notice to the proposed accused and to receive the objections, if any according to law, as early as possible. Aggrieved by the order of the Sessions Judge, the petitioner is before this court.

3. Heard the learned counsel appearing on either side and perused the materials available on record.

4. The main grievance of the petitioner is that after receiving the objection, without considering the same, the trial court without complying the order passed by the Sessions Judge, has directly issued summon to him and the same is liable to be set aside on the ground of violation of principles of natural justice.

5. It is seen from the records that already the petition filed by the 2nd respondent police in CrI.MP No.1600 of 2019 on the file of the Judicial Magistrate, Thuraiyur, was dismissed and against that order, the de-facto complainant/1st respondent herein preferred revision and in that revision, the Sessions Judge passed an order, setting aside the order of the trial court and remanded back the case to the trial court for fresh disposal. While remitting back the case to the trial court, the learned Sessions Judge directed the trial court to dispose of the CrI.MP No.1600 of 2019 after issuing notice to the proposed accused and after receiving objection, if any from the parties concerned. But the trial court without complying the directions of the Sessions Judge, had directly issued summons to the proposed parties, in the considered view of this court, it is not correct.

6. In view of that, this Criminal Revision is allowed. The case is remitted back to the trial court namely the Judicial Magistrate, Thuraiyur to dispose of the CrI.MP No.1600 of 2019 in C.C No.165 of 2011, as per the directions issued by the I Additional Sessions Judge, Tiruchirapalli, in CrI.RC No.41 of 2019 and also purely on



merits and in accordance with law, as expeditiously as possible.
Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AE)

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// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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 I Additional District & Sessions Judge (PCR),
Tiruchirappalli.
- 2.The Judicial Magistrate,
Thuraiyur.
- 3.The Sub Inspector of Police,
Thathaiyangarpettai Police Station,
Trichirappalli District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to MR.D.SHANMUGA RAJA SETHUPATHI, Advocate (SR-21864[F] dated 09/07/2021)

Cr1.R.C(MD)No.369 of 2021
09.07.2021

MGJ (23/08/2021) 3P 6C