



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 10.08.2021

CORAM

THE HONOURABLE MRS. JUSTICE **T.KRISHNAVALLI**

Crl.RC(MD)No.442 of 2021

Marriyappan @ Periyamundan

: Petitioner

Vs.

State through
Inspector of Police,
Authoor Police Station,
Authoor-628 151.
Thoothukudi District.

: Respondent

Prayer: Criminal Revision filed under section 397 r/w 401 of the Code of the Criminal Procedure, against the order, dated 25.01.2021 made in MC No.14 of 2021 on the file of the Sub Divisional Administrative Magistrate and Revenue Divisional Officer, Tiruchendur, Thoothukudi District.

For Petitioner

: Mr.G.Kannan

for Mr.Ramkumar Adityan

For Respondent

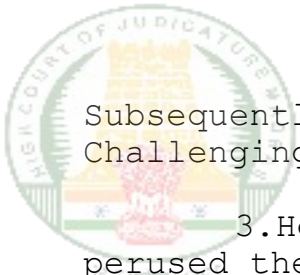
: Mr.RMS.Sethuraman

Counsel for State Government
(Criminal side)

O R D E R

This Criminal Revision is filed against the order, dated 25.01.2021 passed in MC No.14 of 2021 by the Sub Divisional Administrative Magistrate and Revenue Divisional Officer, Tiruchendur, Thoothukudi District.

2.It is seen from the records that the petitioner was frequently involved in criminal cases and he was history sheeted Rowdy No.162/2019 and a report was initiated by the respondent police and the same was forwarded to the Sub Divisional Magistrate-cum-Revenue Divisional Officer, Thiruchendur, for necessary action. The petitioner was directed to execute a bond for a period of one year for keeping peace and maintaining good behaviour and as per the direction, the petitioner executed a bond for keeping peace and maintaining good behaviour from 13.08.2020 to 12.08.2021. But however, on 16.01.2021, the petitioner involved in criminal offence and a case was registered against the petitioner by the respondent police in Crime No.25 of 2021 under section 294 (b), 323, 324, 307, 506(ii) IPC. Thereafter, the Sub Divisional Administrative Magistrate and Revenue Divisional Officer, Tiruchendur, issued summon to the petitioner under section 113 of Cr.P.C, to appear on 22.01.2021 and enquiry was conducted.



Subsequently, the impugned order came to be passed on 25.01.2021. Challenging the same, the petitioner is before this court.

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

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4. The main contention raised on the side of the petitioner is that there are contradictions in the evidence of PW1 to PW3 and there are contradictions between the contents of FIR and the statement of PW1 and the accused pleaded that he was not guilty, but on the basis of the evidence of PW1 to PW3, the Sub Divisional Magistrate-cum-Revenue Divisional Officer, Tiruchendur has passed the impugned order, on 25.01.2021, and hence, the impugned order passed by the Sub Divisional Magistrate-cum-Revenue Divisional Officer under section 122(1)(b) Cr.PC is illegal and is liable to be set aside and prays that the Criminal Revision has to be allowed.

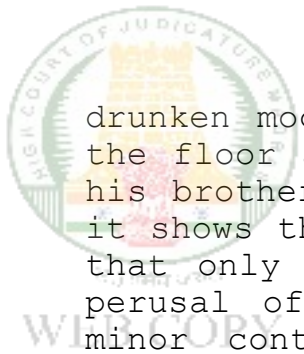
5. Per contra, the learned Standing Counsel appearing for the respondent/State argued that the impugned order, dated 25.01.2021 passed by the Sub Divisional Magistrate-cum-Revenue Divisional Officer, Tiruchendur, is based on the materials available on record and prays for dismissal of the Criminal Revision.

6. In this case, on perusal of the FIR in Crime No.25 of 2021, it was stated that on 16.11.2021 at 10.00 am, when PW1 was returning home after finishing his job, due to previous enmity, Vembadimuthu (A2) called him and for that, he said that நான் அமைதியாக ஏன் வேலையை முடித்துவிட்டு போய்விட்டேன் இருக்கிறேன், then A2 assaulted him and caused injury on his head and A1 with his leg, pressed his neck and then, one Mayandi pacified them and then, he went to the Hospital and the police came and recorded his statement.

7. In this case, the victim was examined as PW1. PW1 categorically deposed that on 16.01.2021 at 10.00 am, when he was returning from his job, A2 called him and asked to come near him and for that, he replied that "பேசினால் வம்பு, வரும்" and then A1 pulled him and pressed his neck with his leg and A2 with bottle caused injury on his head and his sister took to Government Hospital, Thoothukudi. Hence, the evidence of PW1 is corroborated with the contents found in the FIR.

8. In this case, PW2 was cited as witness. PW2 categorically deposed that on 16.01.2021 at 8.30 pm, when he was returning from his job, he saw that A1 and A2 and PW1 quarrelled each other and he asked them not to fight and went away. From the evidence of PW2, it reveals that quarrel arose between A1 and A2 and PW1 on the date of the occurrence. PW3 is the brother of PW1. He is only hearsay witness.

9. On perusal of the impugned order, it is stated that when the accused was questioned, he replied that he and PW1 were in



drunken mood and due to sudden quarrel, both of them fell down in the floor and PW1 sustained injury and during the time of quarrel, his brother came and took him. From the statement of the accused, it shows that he quarrelled with PW1. But PW1 categorically stated that only A1 and A2 attacked and he sustained injury. On careful perusal of the evidence of witnesses, it reveals that there are minor contradictions, but it will not affect the case of the prosecution. Further, the accused himself admitted that there was a quarrel between him and PW1. Further, on the side of the respondent, it is stated that the accused is a history sheeted rowdy and had frequently involved in number of criminal cases.

10.Further, it is seen from the records that the impugned order has been passed, after giving reasonable opportunity to the accused. Hence this court is of the considered view that there is no need to interfere in the impugned order passed by the Sub Divisional Magistrate-cum-Revenue Divisional Officer, Tiruchendur

11.In the result, this criminal revision fails and the same is **dismissed**.

Sd/-

Assistant Registrar (CS I)

// 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 Sub Divisional Magistrate & Revenue Divisional Officer,
Tiruchendur,
Thoothukudi District.

2.The Inspector of Police,
Authoor Police Station,
Authoor-628 151.
Thoothukudi District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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



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Copy to:

The Section Officer,
Criminal Section (Records)
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

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RS (16.09.2021) 4P 6C