



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.11.2021

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P(MD)No.10634 of 2021

Mary Bamini

... Petitioner

Vs.

1.Gurunathan
2.Abraham Cruz
3.Karuppasamy
4.Esakkiraj
5.Muniyasamy
6.Kannan
7.A.Raja
8.N.Radhakrishnan
9.Shanmugam
10.Sudalimuthu
11.Mohan Jothi
12.Vadivelu

... Respondents

Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records relating to the order passed in Crl.R.C.No.16 of 2015 dated 22.09.2016 passed by III Additional Sessions Judge, Tirunelveli by confirming the order in C.C.No.87 of 2014 dated 13.03.2015 passed by Judicial Magistrate No.IV, Tirunelveli and set aside the same.

For Petitioner	:	Mr.P.Edin Brough
For Respondents	:	Mr.G.Thalaimutharasu, For R1, R2 and R5 to R12.
R3	:	Died
R4	:	Unserved(Not Known)

O R D E R

This criminal original petition has been filed to set aside the order dated 22.09.2016 based by the III Additional Sessions Judge, Tirunelveli, dismissing the revision petition filed by the petitioner herein.

2.The petitioner herein filed C.C.No.87 of 2014 on the file of the Judicial Magistrate No.IV, Tirunelveli for prosecuting the respondents herein. The trial Magistrate by order dated 13.03.2015 dismissed the private complaint under Section 203 of CrPC. Aggrieved by the same, the petitioner filed revision petition before



the Sessions Court. But the same was also dismissed on 22.09.2016. Challenging the same, this criminal original petition has been filed.

3.It is too well settled that there is bar against maintaining a second revision under Section 397 of CrPC. This statutory bar cannot be overcome or circumvented by filing a petition under Section 482 of CrPC. Of course, under certain exceptional circumstances, the inherent powers of this Court can be exercised notwithstanding the bar under Section 397 of CrPC. The case on hand has not been demonstrated to fall under such exception.

4.That apart as rightly pointed out by the learned counsel appearing for the private respondents, the Revisional Court passed an order on 22.09.2016. This criminal original petition was filed only on 26.07.2021. Thus after a gap of almost five years, this criminal original petition has been filed. No convincing explanation has been set out for this long delay in filing this criminal original petition. I do not find any ground to interfere.

5.It is stated that the petitioner's nephew was implicated in as many as five criminal cases and out of them, two had ended in acquittal and three cases are still pending. According to the petitioner, the jewellery seized from her house has been shown as recovered items in those criminal cases. The petitioner has taken out petitions under Section 451 of CrPC in all the three cases. They are said to be still pending. The learned Trial Magistrate is directed to dispose of those petitions on merits and in accordance with law within a period of three months from the date of receipt of a copy of this order. I make it clear that the outcome of these proceedings will not cast any shadow on the disposal those petitions for return of articles filed by the petitioner. They will be dealt with independently and on their own merits.

6.With this liberty and observation in favour of the petitioner and with the aforesaid direction to the learned Trial Magistrate, this criminal original petition is dismissed. The Registry is directed to mark a copy of this order to the learned Judicial Magistrate, Srivaikuntam.

Sd/-

Assistant Registrar (AD I)

// 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

<https://hccs.courts.gov.in/tcrsqrst> concerned.



To:

1.The III Additional Sessions Judge,
Tirunelveli.

2.The Judicial Magistrate No.IV,
Tirunelveli.

Copy to:

The Judicial Magistrate,
Srivaikuntam.

+1 CC to M/s.P.EDIN BROUGH, Advocate (SR-36432[F] dated
29/11/2021)

Crl.O.P (MD) No.10634 of 2021
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MGJ(14.12.2021) 3P 5C