



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATE : 02.02.2021
CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.764 of 2019

and

Crl.M.P.(MD)No.8832 of 2019

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1. N. Selvaraj
2. S.Naveen Kumar
3. S.Bhoopathy
4. C.Janaki
5. S.Veeman
6. V.Vasanth
7. G.Dharma
8. T.Bharath

.. Petitioners

Vs.

- 1.The Inspector of Police,
Kadaiyam Police Station,
Tirunelveli District.

- 2.Sankar
- 3.Suriyakala
- 4.Ashok

.. Respondents

Prayer : This criminal revision case is filed under Section 397 r/w. Section 401 of Cr.P.C., to call for records pertaining to Crl.M.P.No.515 of 2017 in S.C.No.851 of 2016 on the file of the learned Assistant Sessions Judge, Ambasamudram and to set aside the order passed in Crl.M.P.No.515 of 2017 dated 16.08.2019.

For Petitioners	: Mr.V.Pavel
For Respondent No.1	: Mrs.S.Bharathi
	Government Advocate
For R2 to R4	: No appearance

ORDER

This Criminal Revision Case has been filed to call for records pertaining to Crl.M.P.No.515 of 2017 in S.C.No.851 of 2016 on the file of the learned Assistant Sessions Judge, Ambasamudram and to set aside the order passed in Crl.M.P.No.515 of 2017 dated 16.08.2019.

2. The defacto complainant in Crime No.158 of 2020 in S.C. No.851 of 2016 has given an evidence against the revision petitioners. On the basis of that evidence, the learned Additional Public Prosecutor filed a petition under Section 319 Cr.P.C., to send summon to the proposed accused, who are the revision petitioners herein. That petition was numbered as Cr.M.P.No.515 of

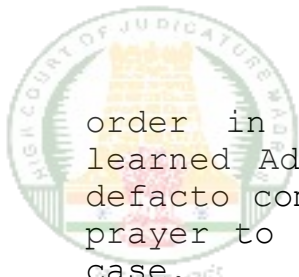


2017 in S.C.No. 851 of 2016 and the trial Court allowed the petition. Against that order, the petitioner preferred this revision.

3.On the side of the revision petitioner, it is stated that there was previous enmity between the complainant and the revision petitioners, and a civil suit is pending between them and that another case was registered by the petitioners against the complainant and others in Crime No.159 of 2014 and the same was taken on file as S.C.No.193 of 2016 by the Additional District and Sessions Judge, Mahalir Court, Tirunelveli. List of witnesses 1 to 3 have mentioned that in the Accident Register they were assaulted by five known persons. Hence, the revision petitioners are not necessary parties in the criminal case.

4.It is further stated that the prosecution document, viz., accident register, clearly reveals that only five persons involved in the offence. The Additional Public Prosecutor has no *locus standi* to file a petition, when the investigation agency has already deleted the name of the revision petitioner in the charge sheet and that the complainant had not taken any steps against the committal proceedings. The trial Court failed to consider that there is a civil case pending between the parties, the mandatory provision under Section 588-A of Police Standing Orders was clearly ignored by the police. The satisfaction of Judicial Officer was not recorded and prayed the impugned order to be set aside.

5.On the side of the first respondent, it is stated that originally a case was registered against the revision petitioners in Crime No.158 of 2014, under Sections 294(b), 147, 148, 324, 307 and 506(ii) I.P.C., based on the complaint of the defacto complainant. There was a dispute between two group of people, regarding a Murugan temple festival. It is stated that on 07.05.2014, the fifth petitioner / Veeman, removed the soil deposited on the road, for which, the defacto complainant's father made a complaint before the Village Administrative Officer and there was an enquiry, on 08.05.2014 and based on this motive, the defacto complainant and his friends were attacked by the revision petitioners and others and the second respondent /Sankar was arrested on 10.05.2014. After completion of the investigation, the respondent police filed a charge sheet on 16.07.2014 against the respondents 2 to 4. The defacto complainant made an objection and filed a petition in Cr.M.P.No.3933 of 2016 for re-investigation. The Judicial Magistrate, Ambasamudram, directed the authorities to re-investigate the matter. Again, after completion of investigation, an additional report was filed on 24.07.2016. Against the same, the defacto complainant made objection by way of filing a petition in Cr.M.P.No.4017 of 2016 and the Judge granted leave to file a private complaint and the defacto complainant failed to file any private complaint, the Judicial Magistrate passed an



order in Cr.M.P.No.4075 of 2016 and committed the case to the learned Additional Sessions Judge, Ambasamudram. During trial, the defacto complainant filed a petition in Cr.M.P.No.515 of 2017 with a prayer to implead the present revision petitioner as accused in the case.

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6. On the side of the first respondent, it is further stated that the trial Judge allowed the petition Under Section 319 of Cr.P.C. and has summoned the petitioners. The trial Court is having the discretionary power to proceed against other person, who appears to be involved in the commission of the offence and that there is no infirmity in the order passed by the trial Judge and prayed the petition to be dismissed.

7. Though notice was served to the respondents 2 to 4, name of the counsel printed in the cause list, none appeared for the respondents 2 to 4. The respondents 2 to 4 supported the case of the revision petitioners in the counter filed before the trial Court.

8. A perusal of the records reveals that original F.I.R was registered against 12 persons, including the revision petitioners. After investigation, the Investigation Agency deleted the name of the revision petitioners and filed the charge sheet only against the respondents 2 to 4. Aggrieved by the same, Against the same, the defacto complainant filed a petition for re-investigation. That petition was allowed by the trial Court. Even after re-investigation, the same final report was filed by the investigation agency. Again, the defacto complainant filed an objection petition and he was given liberty to file a private complaint. It is seen that the defacto complainant has not filed any private complaint so far.

9. During trial, the defacto complainant deposed about the involvement of the revision petitioners in the offence. In the F.I.R., it is clearly stated that the proposed accused persons / revision petitioners assaulted the defacto complainant and other witnesses and caused injuries to them. It is seen that the revision petitioners filed various documents before the trial Court. Ex.R1 reveals that there was previous enmity between the parties. Ex.R2 and R3 reveals that there is a civil case filed subsequent to the alleged occurrence. It is seen that there was a counter case in Crime No.159 of 2014 and charge sheet was filed against the defacto complainant and others. The trial Judge, after carefully discussing all the documents produced on the side of the revision petitioners, has come to the conclusions that the revision petitioners are necessary for the case.

10. Whether the revision petitioners have involved in the commission of the offence or not can be decided, but, only after the completion of the trial. In the above circumstances, there is



nothing sufficient enough to interfere in the order of the trial Court. Hence, this Criminal Revision Case is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

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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 Assistant Sessions Judge,
Ambasamudram.
- 2.The Inspector of Police,
Kadaiyam Police Station,
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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