



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 29.06.2021

DELIVERED ON : 01.10.2021

CORAM

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Crl.R.C.(MD)No.435 of 2017

WEB COPY

R.A.Titas Athithan

S/o. Anthonymuthu Nadar

: Revision Petitioner/Complainant

Vs.

1. Sivaram

2. Saravanan

3. Rajendran

4. Edwin Brit Joesh

: Revision Respondents/Petitioners

PRAYER: Criminal Revision filed under Sections 397 and 401 of Criminal Procedure Code, to admit this revision on file, to call for the records from the lower Court and to duly set aside the judgment passed by the Judicial Magistrate, Sankarankoil, Tirunelveli District in Crl.M.P.No.1283 of 2017 dated 20.03.2017.

For Petitioner

: Mr.P.T.Thiraviam

For Respondents

: Mr.R.J.Karthick for R2

Mr.P.Mahendran for R3

R-1 and R-4 -No Appearance

O R D E R

This Criminal Revision has been filed to set aside the judgment passed by the Judicial Magistrate, Sankarankoil, Tirunelveli District in Crl.M.P.No.1283 of 2017 dated 20.03.2017.

2.Heard, Mr.P.T.Thiraviam, learned counsel appearing for the petitioner, Mr.R.J.Karthick, learned counsel appearing for the second respondent and Mr.P.Mahendran, learned counsel appearing for the third respondent.

3.The Revision Petitioner lodged a complaint to the Inspector of Police, Sankarankovil Town Police Station against the Accused/Respondents alleging that they have scolded him in filthy language and also assaulted while questioning about the disconnection of water connection given illegally to one Marimuthu. The Police did not take any action against the Accused Persons. Therefore, the Revision Petitioner filed a Petition before the learned Judicial Magistrate, Sankarankovil in Crl.M.P.No.1283 of 2017. The learned Judicial Magistrate, on assessment of sworn statement, had dismissed the Petition.



4. Aggrieved by the dismissal order of the learned Judicial Magistrate, Sankarankovil, the Petitioner filed this Revision Petition before this Court.

5. The learned counsel for the Revision Petitioner submitted that the orders passed by the learned Judicial Magistrate, Sankarankovil in Crl.M.P.No.1283 of 2017, dated 20.03.2017 is perverse. Therefore, the Revision has to be allowed and the learned Judicial Magistrate is to be directed to pass appropriate order.

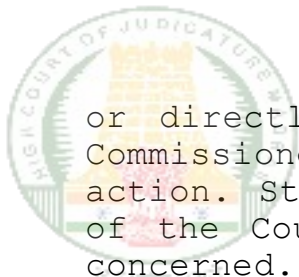
6. Point for Consideration:

Whether the order passed by the learned Judicial Magistrate, Sankarankovil in dismissing the Crl.M.P.No.1283 of 2017, dated 20.03.2017, is perverse warranting interference by this Court?

7. Perused the order of the learned Judicial Magistrate, Sankarankovil in Crl.M.P.No.1283 of 2017 dated 20.03.2017 and the grounds of the revision filed by the Revision Petitioner.

8. The arguments of the learned Counsel for the Revision Petitioner that the orders passed by the learned Judicial Magistrate, Sankarankovil in Crl.M.P.No.1283 of 2017 dated 20.03.2017 is perverse. Therefore, the revision has to be allowed. The learned Judicial Magistrate is to be directed to pass appropriate orders, is found unacceptable and unreasonable considering the well-reasoned order of the learned Judicial Magistrate, Sankarankovil.

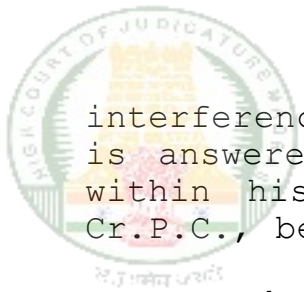
9. The learned Judicial Magistrate had relied on the judgment of the Hon'ble Supreme Court in the case of **Lalita Kumari vs. Government of Uttar Pradesh and Others-IV [(2014) 2 SCC 1]** and also the petition filed by the petitioner in Crl.O.P.(MD).No.21652 of 2016 in which the Petitioner herein had obtained favourable orders against the Inspector of Police, Sankarankovil Town Police Station/Respondent in the said Criminal Original Petition, for the very same occurrence in which this Court had directed the Inspector of Police, Sankarankovil Town Police Station, to register the case and investigate the case. Accordingly, the Police had investigated and found that the allegations made in the complaint by the Petitioner therein was found to be fictitious. Therefore, the case was closed by the Police. Further, the learned Judicial Magistrate had relied on the ruling of this Court reported in **2016-2-L.W.(Crl.)499** in the case of **Sugesan Transport Pvt. Ltd., Vs. The Assistant Commissioner of Police**, in which this Court had given guidelines to the person who is aggrieved. When the Police are reluctant to take the complaint on file and register the case, the aggrieved party shall give a complaint through registered post



or directly to the Superintendent of Police in the District or Commissioner of Police in the City and has to wait for their action. Still, if action is not taken, they can invoke the powers of the Court by approaching the Court of the learned Magistrate concerned. If the aggrieved party approaches the Court of the learned Judicial Magistrate, he/she can give the complaint orally or in writing. As per the said guidelines, if the said complaint is given to the learned Magistrate, he/she shall state the facts that earlier complaint to the police was not taken on file. Therefore, he/she had approached the Superintendent of Police of the District concerned. There, no action was initiated. Therefore, he/she had approached the Court of the learned Judicial Magistrate after having exhausted all the remedy available, with private complaint.

10. In this case, the petitioner had not mentioned whether he had preferred complaint to the Superintendent of Police after the Sankarankovil Town Police refused to initiate action. Further, in the sworn statement, he had mentioned that Sankarankovil Town Police had taken the complaint and issued CSR receipt. That shows the Police had taken action after CSR receipts are issued and they conducted preliminary enquiry. If the allegations made in the complaint are found reasonable and true, then they would have registered the case. Also, the learned Judicial Magistrate in his order stated that as per the guidelines issued by the Hon'ble Supreme Court in the case of ***Lalita Kumari vs. Government of Uttar Pradesh and Others-IV [(2014) 2 SCC 1]*** before registering the case, the police are within their power to conduct preliminary enquiries in non-cognizable cases. Before approaching the Court with a private complaint, the aggrieved party, as complainant, shall furnish the closure report regarding the earlier complaint and the action taken by the Police.

11. In this case, the Petitioner had not mentioned about the closure of the case by the Police after obtaining the favourable orders through directions from the Hon'ble High Court in CrI.O.P. (MD).No.21652 of 2016. Therefore, the learned Judicial Magistrate felt that the Petitioner herein had suppressed the fact of closure report by the Police. It had not been mentioned in the petition and affidavit filed before the learned Judicial Magistrate, Sankarankovil. The learned Magistrate felt that the petitioner had not followed the guidelines issued in the reported rulings of this Court in ***2016-2-L.W. (CrI.) 499*** in the case of ***Sugesan Transport Pvt. Ltd., Vs. The Assistant Commissioner of Police***. Therefore, he had dismissed the complaint filed under Section 156 (3) of Cr.P.C. Since the order is found well-reasoned order as per the Hon'ble Supreme Court in the case of ***Lalitha Kumari*** and as per the Ruling of this Court in ***2016-2-L.W. (CrI.) 499*** in the case of ***Sugesan Transport Pvt. Ltd., Vs. The Assistant Commissioner of Police***, the order of the learned Magistrate is not found perverse warranting



interference by this Court. Therefore, the point for consideration is answered against the petitioner. However, the petitioner is within his rights to move private complaint under Section 200 Cr.P.C., before the learned Judicial Magistrate concerned.

In the result, this Criminal Revision is dismissed. The order passed by the Judicial Magistrate, Sankarankoil, Tenkasi District in Crl.M.P.No.1283 of 2017 dated 20.03.2017 is confirmed.

Sd/-

Assistant Registrar (CS I)

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/ /2021

Sub Assistant Registrar(CS)

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To

- 1.The Judicial Magistrate,
Sankarankoil, Tirunelveli District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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

Crl.R.C.(MD)No.435 of 2017
01.10.2021

SS (CO)

RS/NS (22.11.2021) 4P 5C