



IN THE HIGH COURT OF JUDICIATURE AT MADRAS

DATED: 04.03.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.R.C.No.194 of 2022

G.Umapathy

...Revision Petitioner

versus

1.The Inspector of Police,
T-6, Avadi Police Station,
Avadi, Chennai - 600 054.

2.G.Mahendrababu

3.G.Maheshkumar

...Respondents

Prayer: Criminal Revision filed under Section 397 r/w.Section 401 of Code of Criminal Procedure, to set aside the order passed in C.M.P.No.4617 of 2021 on the file of the Judicial Magistrate No.II, Poonamallee, dated 09.09.2021 by allowing the present Criminal Revision Case.

For Petitioner : Mr.B.Gopalakrishnan

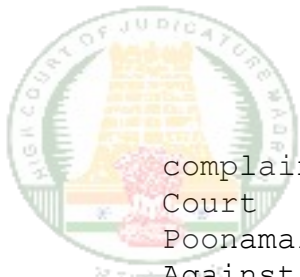
For Respondent-1: Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl. Side)

O R D E R

Being dissatisfied with the order dated 09.09.2021 in C.M.P.No.4617 of 2021 passed by the learned Judicial Magistrate No.II, Poonamallee (FAC), the petitioner, who is the complainant/petitioner, has preferred this criminal revision praying to set aside the order dated 09.09.2021 and to restore the complaint filed by him on file.

2. The revision petitioner has filed a private complaint under Section 156(3) r/w. 200 Cr.P.C., seeking the relief to direct the respondent police to act upon the complaint given by him, to register the case as against the respondents 2 and 3/accused. Further, the same has been pending with the learned Judicial Magistrate No.II, Poonamallee.

3. In the said circumstances, when at the time, the said complaint has been posted for hearing on 09.09.2021, the



complainant/petitioner herein has not appeared before the said Court and thereby, the learned Judicial Magistrate No.II, Poonamallee dismissed the complaint filed by the petitioner. Against which, the petitioner is before this Court with this Criminal Revision Case.

4. Today, when this revision petition came up for admission, the learned counsel appearing for the revision petitioner would submit that the learned Judicial Magistrate No.II, Poonamallee without giving an opportunity, passed the dismissal order, which is an erroneous one.

5. In this regard, Mr.Leonard Arul Joseph Selvam, learned Government Advocate (Crl. Side), who accepts notice on behalf of the respondent police has made a submission that, it is true, without giving any opportunity, the impugned order has been passed.

6. Now, on considering the said submissions with the relevant records, in general, if the complaint is presented before the learned Judicial Magistrate under Section 156(3) of Cr.P.C, for further action, it is the duty upon the complainant to appear before the Court for every hearings till passing of the final order. Now, herein it is a case, the petitioner herein has not followed the said procedure and as a result of which the learned Judicial Magistrate has passed the impugned order. However, all are aware, in the month of September, 2021, the entire nation was affected due to Covid 19 pandemic. Due to the same, the petitioner might not have appeared before the trial Court. In otherwise, in the said circumstances, it would be necessary for the learned Judicial Magistrate to provide some opportunity for the appearance of the petitioner. But, in this case, the said opportunity has not been provided to the petitioner. Therefore, I am of the opinion that the said order passed by the learned Judicial Magistrate No.II, Poonamallee is nothing but perverse. In fine, this Court is inclined to set aside the order dated 09.09.2021.

7. Accordingly, the learned Judicial Magistrate No.II, Poonamallee (FAC) is directed to restore the complaint on file and after sending notice to the revision petitioner and after confirming the appearance of the revision petitioner, pass necessary order in the complaint preferred by the petitioner under Section 156(3) of Cr.P.C.



With the above directions, the Criminal Revision Petition is allowed.

WEB COPY

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

rsi

To

1.The Judicial Magistrate No.II,
Poonamallee.

2.The Inspector of Police,
T-6, Avadi Police Station,
Avadi, Chennai - 600 054.

3.The Public Prosecutor,
High Court, Madras.

+1 CC to Mr.B.Gopalakrishnan, Advocate sr 14790.

Cr1.R.C.No.194 of 2022

GPL(CO)
SP(11/04/2022)