



Crl.R.C.No.1129 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2022

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.1129 of 2021

M.Thomas

... Petitioner

Versus

1.Kanika Kashyap
2.Thamizhselvi
3.Yuvaraj
4.Ramu
5.Pavithra
6.Vijayakumar

7.The Station House Officer,
Grand Bazaar Police Station,
Puducherry.

... Respondents

Criminal Revision Case filed under Sections 397 r/w 401 of Criminal Procedure Code to call for the records pertaining to the order dated 26.08.2021 made in Crl.M.P.No.4625 of 2021 on the file of the Chief Judicial Magistrate, Puducherry which is partly dismissed by the trial Court as far as the respondents 4 to 6 and to direct the 7th respondent to register the complaint against the respondents 4 to 6 and to allow the Criminal Revision Petition.



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For Petitioner : Mr.D.Selvaraja

For Respondents : Ms.V.Chellammal
for R1
Mr.A.Tamilvanan
for R2 to R6
Mr.V.Balamurugane
Public Prosecutor for R7

ORDER

This Criminal Revision Case has been preferred challenging the order 26.08.2021 made in Crl.M.P.No.4625 of 2021 by the learned Chief Judicial Magistrate, Puducherry.

2. The grievance of the petitioner is that the petitioner is a landlord and he leased out the ground floor portion to the respondents/accused for the purpose of running a restaurant, for which, a rental agreement was entered into between the petitioner and the second respondent on 19.11.2020. The said rental agreement was entered only for the purpose of running a restaurant, but the respondents/accused started to sell liquor inside the premises, which is in violation of the rental agreement. Thereafter, he came to know that the said rental agreement was suppressed by the accused herein and they created a forged rental agreement on 01.04.2016, by forging the signature of the complainant and obtained permission to run a liquor shop in



the said premises. The said document is a fabricated one, wherein, it is manipulated that the landlord of the said premises permitted the tenant to sell liquor in the said premises. Hence, the petitioner lodged complaints before the seventh respondent on 20.04.2021 and 12.05.2021, respectively and they have not taken any action. Hence, he preferred a complaint before the Superintendent of Police (East) Puducherry on 01.05.2021, but the same has been kept in abeyance without any further action.

3. Thereafter, the petitioner filed a complaint in Crl.M.P.No.4625 of 2021 before the learned Chief Judicial Magistrate, Pondicherry under Section 200 Cr.P.C seeking to take cognizance, issue summons to the accused, try and punish them, or direct Investigation by the seventh respondent under Section 156(3) Cr.P.C for offences under Sections 418, 420, 120-B, 463, 464, 466, 471, 268, 275 and 290 IPC. After enquiry, the learned Magistrate dismissed the petition, as if it was filed under Section 156(3) Cr.P.C to give direction for investigation. When the learned Magistrate found that it is not a fit case to direct the respondent/Police to register the case and proceed with the matter, summon the witnesses and ask the complainant to examine the witnesses under Section 200 Cr.P.C., but instead of following the procedures laid down



under Section 203 Cr.P.C he simply rejected the complaint as if only the complainant filed the complaint before the learned Magistrate seeking to direct the Police to register the case and investigate the matter.

4. The learned counsel for the petitioner submitted that, despite there is an allegation against the accused persons, the learned Magistrate has taken cognizance only as against A1 to A3, however, failed to take cognizance against A4 to A6, which warrants interference of this Court.

5. The learned counsel appearing for the first respondent submitted that the first respondent is no way connected with alleged fabrication, however, she has already been implicated as one of the accused in the case.

6. The learned counsel appearing for the respondents 2 to 6 submitted that the petitioner has not filed any affidavit as contemplated and laid down by the Hon'ble Supreme Court in the case of ***Prinyanka Srivastava & Anr Vs. State of U.P. & Ors*** [in Crl.A.No.781 of 2012 dated 19.3.2015]. He further submitted that the respondents 2 to 6 have already entered into agreement and got licence and they are having valid licence to run the



business. The learned Magistrate has already taken cognizance against the second and third respondent, who are the mother and son of the fourth respondent and the petitioner wanted to implicate all the family members of the second respondent only in order to harass the family members. Further, the petitioner has not produced any materials as against A4 to A6 to show that they were involved in the commission of the offences. In the absence of the averments, the learned Magistrate has rightly dismissed the petition as against the respondents 4 to 6 and there is no merit in the revision and the same is liable to be dismissed.

7. On a perusal of the records, it is seen that there is a specific allegation against the fourth respondent/A4 and the learned Magistrate is hereby directed to implicate the fourth respondent as one of the accused in the case and proceed with the compliant under Section 203 Cr.P.C. Insofar as the respondents 5 and 6 are concerned, there is no specific averments made in the complaint under Section 200 Cr.P.C.



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8. In view of the above, the learned Magistrate is directed to proceed with the complaint filed against the respondents 1 to 4 under Section 200 Cr.P.C on merits and in accordance with law.

9. With the above direction, this Criminal Revision Case is partly allowed.

10.11.2022

Index : Yes/No
Speaking Order/Non Speaking Orders

To

- 1.The Chief Judicial Magistrate,
Puducherry.
- 2.The Public Prosecutor,
Puducherry.
- 3.The Station House Officer,
Grand Bazaar Police Station,
Puducherry.



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P.VELMURUGAN, J.

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