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Crl.R.C.No.14 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2022

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.14 of 2020

Ramasamy

... Petitioner

Versus

1.Ramar
2.Ramasamy (died)
3.Periyasamy
4.Periammal(died)
5.Karvadi @ Sottaiyan
6.Muthuvel
7.Ayyavoo
8.Rangasamy

... Respondents

Criminal Revision Case filed under Sections 397 r/w 401 of Criminal Procedure Code to set aside the order passed by the learned Judicial Magistrate, Perambalur passed in Crl.M.P.No.567 of 2019 dated 29.07.2019 and direct him to take the private complaint on file and issue the process to the accused and respondents.

For Petitioner : Mr.T.R.Ravi

For Respondents : No appearance
for R1, R3 and R5 to R8
R2 and R4 Died



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ORDER

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This Criminal Revision Case has been preferred against the order dated 29.07.2019 passed by the learned Judicial Magistrate, Perambalur in CrI.M.P.No.567 of 2019.

2. Heard the learned counsel for the petitioner and perused the materials available on record.

3. Despite service of notice on the respondents 1, 3 and 5 to 8 and their names also being printed in the cause list, there is no appearance either in person or through counsel.

4. It is the case of the petitioner that he has filed a private complaint under Section 200 Cr.P.C before the learned Judicial Magistrate, Perambalur, Perambalur District in CrI.M.P.No.567 of 2019 against the respondents for the offences under Sections 406, 384, 420, 342 and 323 IPC. The learned Magistrate had taken the charge sheet on file and also recorded the sworn statement from the petitioner, instead of taking cognizance of the complaint,



the learned Magistrate dismissed the petition. Aggrieved by the same, the petitioner has preferred the present revision.

5. The learned counsel for the petitioner submitted that on the face of the records, even in the complaint there is a *prima facie* materials made out to substantiate the allegations levelled against the respondents. The learned Magistrate without looking into the matter and in order to find out as to whether there is any *prima facie* case is made out or not, went to the depth and also failed to appreciate the provisions of Indian Penal Code and has given a finding as if the case was contested which is beyond the scope of Section 200 Cr.P.C. The learned Magistrate exceeded his power and limit and discussed all the ingredients of Section 200 Cr.P.C on merits and dismissed the petition, which warrants interference of this Court.

6. On a bare perusal of the complaint, which shows that there are *prima facie* allegations levelled against the respondents, the learned Magistrate unfortunately instead of find out as to whether any *prima facie* allegations are made out in the complaint or not and he went to the depth of the case even without issuing any summons to the accused persons and



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without giving an opportunity of hearing to the petitioner to prove his complaint, dismissed the complaint.

7. In the light of the above facts and circumstances, this Criminal Revision Case is allowed and the impugned order dated 29.7.2019 passed by the learned Judicial Magistrate, Perambalur is hereby set aside. The learned Magistrate is directed to proceed with the complaint filed by the petitioner in accordance with law, after issuing summons to all the parties, since the occurrence was alleged to have taken place on 30.08.1998. The learned Magistrate is also directed to expedite the matter and dispose of the case on merits and in accordance with law, after affording an opportunity of hearing to both the parties, within a period of four months from the date of receipt of a copy of this order.

08.12.2022

Index : Yes/No
Speaking Order/Non Speaking Order
ms

To
The Judicial Magistrate,
Perambalur.



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P.VELMURUGAN, J.

ms

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