



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 30.03.2022
CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C(MD)No.83 of 2022

N.Dinakaran

... Petitioner/Complainant

Vs.

1.The Inspector of Police,
Town Police Station,
Pudukkottai District.

2.Anandram Soudri

3.Prakash Soudri

4.Pikadai Noor Mohamed

... Respondents/Respondents

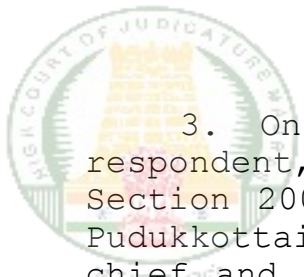
Prayer: This Criminal Revision Case filed under Section 397 and 401 Cr.P.C., to set aside the order dated 12.03.2020 in Cr.M.P.No.3369 of 2019 on the file of the learned Judicial Magistrate Court No.I, Pudukkottai and issue process against the respondents 2 to 4 by allowing this Criminal Revision petition.

For Petitioner	: Mr.Balasundharam
For Respondent	: Mr.K.Sanjai Gandhi
	Government Advocate (Crl.side)
	No appearance for R2 to R4

O R D E R

This Criminal Revision Case has been filed to set aside the order dated 12.03.2020 passed in Cr.M.P.No.3369 of 2019 on the file of the learned Judicial Magistrate Court No.I, Pudukkottai and issue process against the respondents 2 to 4 by allowing this Criminal Revision petition.

2. The case of the petitioner is that the respondents 2 to 4 who are doing furniture business have indulged in criminal trespass on 29.03.2019 to the petitioner's premises and upon entering the campus have vandalized the flex board fencing and also looted bench, table and steel furniture worth about Rs.1,00,000/-. Immediately, the petitioner gave a complaint before the respondent police and the same was registered in Crime No.127 of 2019 for the offences under Section 427 and 379 of IPC. However, the first respondent closed the said complaint as mistake of fact and also served RCS notice to the petitioner.



3. On receipt of the RCS notice received from the first respondent, the petitioner has preferred a private complaint under Section 200 of Cr.P.C before the Learned Judicial Magistrate No.1, Pudukkottai. The petitioner and the other witnesses were examined in chief and 9 documents were marked. The learned Judicial Magistrate without adjudicating the complaint on merits and in accordance with law has dismissed the same by stating that the complaint is prematured, since the first respondent has not filed final report after RCS notice.

4. It is well known to all that only after closing of FIR, RCS notice will be served upon the defacto complainant. In the case on hand, after closing the FIR as Mistake of Fact, the first respondent served RCS notice to the petitioner. On receipt of the same, the petitioner has filed a private complaint under Section 200 of Cr.P.C and four witnesses were examined as P.W.1 to P.W.4 and 9 documents were marked as Exs.P1 to P9. After examination of four witnesses, the learned Judicial Magistrate ought not to have stated that the complaint is prematured.

5. The learned Government Advocate(Crl.Side) has produced the final report, it reveals that FIR in Crime No.127 of 2019 has been closed as mistake of fact.

6.Considering the facts and the circumstances of this case, the order passed in Cr.M.P.No.3369 of 2019 dated 12.03.2020 is set aside and the learned Judicial Magistrate No.1, Pudukkottai is directed to consider the deposition of P.W.1 and the documents marked in respect of his evidence as Exs.P1 to P9 and pass orders on merits and in accordance with law within a period of two weeks from the date of receipt of copy of this order.

In the result, this Criminal Revision Case is allowed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

tta

To:

1.The Judicial Magistrate No.I,
Pudukkottai District.

2.The Inspector of Police,
Town Police Station,
Pudukkottai District.



3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Cr1.R.C. (MD) No.83 of 2022
30.03.2022

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MGJ(05.05.2022) 3P 4C