



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 20.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

**Crl.R.C. (MD)No.183 of 2021
and Crl.M.P(MD) No.1968 of 2021**

WEB COPY

M.Angusamy ... Petitioner/Accused/PW1

Vs.

1.State Rep. by
The Inspector of Police,
Puliyankudi Police Station, Puliyankudi
(Crime No.102/2012) ... 1st Respondent/Respondent /
Complainant

2.Pothilingam ...Respondent/Proposed Respondent/Accused

Prayer : This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records from the lower court in Judgment in CC.No.378 of 2014,dated 10.07.2020 and the consequent order dated 10.07.2020 in Crl.MP.No.1450 of 2020 in CC.No.378 of 2014 on the file of the Learned Additional District Munsif Cum Judicial Magistrate,Sivagiri and duly set aside the same.

For Petitioner : Mr.K.Prabhu
For Respondent : Mr.K.Sanjai Gandhi
No.1 Government Advocate(CRL SIDE)

For Respondent : Mr.Aayiram K.Selvakumar
No.2

ORDER

This Criminal Revision has been filed to call for the records from the lower court in Judgment in CC.No.378 of 2014,dated 10.07.2020 and the consequent order dated 10.07.2020 in Crl.MP.No.1450 of 2020 in CC.No.378 of 2014 on the file of the Learned Additional District Munsif Cum Judicial Magistrate,Sivagiri and duly set aside the same.

2. It is seen that the defacto complainant was working as Revenue Assistant of Puliyankudi Municipality Officer. He along with 03.04.2012 PW.3 went to the house one of the accused enquired about the non payment of property tax, thereafter they returned to office and on the same day at about 1.30 pm., the accused came to the Puliyankudi Municipality Office and uttered obscene words against the defacto complainant and threatened him with fear of death and obstructed him in performing his duty as Government Servant. On receipt of the said complaint, the first respondent registered a case in Crime No.102 of 2012 for the offences under Sections 294(b), 353, 506(i) of IPC and after completion of investigation had filed



final report in and the same has been taken cognizance in CC No.378 of 2017 on the file of the Additional District Munsif cum Judicial Magistrate Court, Sivagiri.

3. The petitioner was examined as PW. 1 and he deposed that he went to Ramasamy street for collecting property tax and the people over there questioned them about the property tax and on the higher side P.W.1 to PW.3 informed the people to come to Municipal office regarding their query. Later he lodged complaint before the Municipal Commissioner against the accused alone whom he could identify. He further deposed that he did not write the complaint and his signature was obtained by the police and therefore he was unaware of the contents in the complaint, therefore he was treated a hostile and was cross examined on the side of the prosecution. During cross examination, he deposed that whatever he stated in his chief examination are all false, therefore the trial Court while acquitting the accused invoked the provision under Section 344 of Cr.P.C to take cognizance of the offence for giving false evidence, for which the petitioner was issued show cause notice and he should not be punished for the offence under Section 193 of IPC.

4. On perusal of the evidence of PW.1, it is seen that the had only signed in the complaint and he does not know the contents of the complaint, however he deposed about the threat with the dire consequences while he went for collecting property tax, however he was treated as hostile and in the cross examination he admitted that what he said in the chief are all false. Therefore he again reiterated his evidence and the same was recorded under Section 161 (3) of Cr.P.C, therefore it would not amount to perjury and he cannot be punished for this negligent act.

5. That apart the petitioner was examined in chief after a period of five years from the date of offence. Considering the above, the initiation of proceedings under Section 344 of Cr.P.C and issuance of show cause notice as against the petitioner in Crl.M.P.No.1450 of 2020 cannot be sustained.

6. In view of the above, invoking provision under Section 344 of Cr.P.C to take cognizance for the offence under Section 193 of IPC is hereby set aside and the show cause notice issued as against the petitioner is also set aside and the revision is allowed. Consequently connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(AD-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



1.The Additional District Munsif cum Judicial Magistrate, Sivagiri.

2.The Inspector of Police,
Puliyankudi Police Station, Puliyankudi,
Tenkasi district.

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

+1 CC to M/s.K. PRABHU, Advocate (SR-19889[F] dated 20/04/2022)

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and
Crl.M.P (MD) No.1968 of 2021
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