



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 19.09.2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.R.C.(MD).No.793 of 2022

V.Somasundaram

.. Petitioner/Complainant

Vs.

Dr.L.Subramanian

.. Respondent/Accused

Prayer:- Criminal Revision petition is filed under Section 397 r/w 401 Cr.P.C, to call for the records and set aside the order dated 04.04.2022 passed in Cr.M.P.No.7874 of 2021 on the file of the Judicial Magistrate IV, Thoothukudi and allow the Criminal Revision Petition.

For Petitioner : No Appearance

For Respondent : No Appearance

ORDER

The revision made against the order of dismissal that has been passed by the learned Judicial Magistrate No.IV, Thoothukudi, in Crl.MP.No.7874 of 2021, dated 04.04.2022.



2.The revision petitioner filed a private complaint before the Court under Section 200 Cr.P.C., against the respondent with the following allegations:-

The respondent filed a criminal complaint on 13.11.2002 against the petitioner and two others before the District Crime Branch, Thoothukudi. Upon the above said complaint, a case was registered in Crime No.15 of 2002 under Sections 120(B), 467, 468, 470, 419 and 420 of IPC. The petitioner was arrested and remanded to custody and later, after 7 days, he was released on bail. Final report was filed before the learned Judicial Magistrate No.I, Thoothukudi, and the same was taken on file in C.C.No.324 of 2004. During the course of trial, it was found that charges against the petitioner and others was not proved. So they were acquitted.

3.So, knowingly, a false complaint has been given by the respondent for the purpose of harassing the petitioner and his family members. The petitioner was in custody for more than 7 days. Because of the trial process, he underwent mental and physical ailment. With these allegations he has filed a private complaint before the learned Judicial Magistrate No.IV, Thoothukudi, seeking punishment for the offence punishable under Section 211 of I.P.C. The trial Court has recorded the



statement of the complainant and further, perusing the records, dismissed the complaint on the ground that the judgment of acquittal was rendered in C.C.No.324 of 2004 on the ground that the prosecution has failed to prove the case beyond all reasonable doubts; It was not stated in the judgment that the complaint is a false one; For invoking the offence under Section 211 IPC, the petitioner has not examined any other witnesses; After a lapse of 9 years, the present complaint has been filed and no *prima facie* material has been placed before the Court for proceeding against the respondent. The above said order has been challenged by way of this revision.

4. In spite of repeated adjournments, there was no representation, for the petitioner. To make out a case under Section 211 IPC, the petitioner ought to have followed the proper procedure set out under Section 195 Cr.P.C. Section 195 (b) (1) reads as under:-

“195. Prosecution for contempt of lawful authority of public servants, for offences against public justice and for offences relating to documents given in evidence –

(1) No Court shall take cognizance—

(a) (i) of any offence punishable under sections 172 to 188 (both inclusive) of the Indian Penal Code (45 of 1860), or

(ii) of any abetment of, attempt to commit, such offence,

or



(iii) of any criminal conspiracy to commit, such offence, except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate;

(b) (i) of any offence punishable under any of the following section of the Indian Penal Code (45 of 1860), namely, sections 193 to 196 (both inclusive), 199, 200, 205 to 211 (both inclusive) and 228, when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court, or

(ii) of any offence described in section 463, or punishable under section 471, section 475 or section 476, of the said Code, when such offence is alleged to have been committed in respect of a document produced or given in evidence in a proceeding in any Court, or

(iii) of any criminal conspiracy to commit, or attempt to commit, or the abetment of, any offence specified in sub-clause (i) or sub-clause (ii), except on the complaint in writing of that Court, or of some other Court to which that Court is subordinate”

5.As per the above said provision offence under Section 211 IPC will lie only upon the complaint given by the concerned Court or Officer as the case may be. So, the cognizance of the offence by the Magistrate on the basis of the private complaint is barred. More over, the petitioner has not adopted the procedure under Section 340 Cr.P.C. Even though, the trial Court has not concentrated on this point, the very filing of the private complaint for the offence punishable under Section 211 IPC is



barred under law since it is a non cognizable offence and that too, proceeding under Section 340 Cr.P.C was not followed. So, on that ground, the revision fails.

6. Accordingly, this Criminal Revision Case is dismissed.

19.09.2022

Internet : Yes/No
Internet : Yes/No
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To

The Judicial Magistrate IV,
Thoothukudi.



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G.ILANGOVA N.,J.

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