



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11/02/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.14159 of 2018

and

Crl.MP(MD)No.6347 of 2018

Vasantha : Petitioner/Petitioner/
Petitioner/Complainant

Vs.

1.Angammal
2.Sundaram : Respondents/Respondents/
Respondents/Accused

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records and set aside the order passed in Criminal Revision No.2/2018, dated 13.04.2018 by the learned II Additional District and Sessions Judge, Tiruchirappalli, dismissing the revision petition and confirming the order, dated 30/11/2017 passed in C.M.P No.4478 of 2017 by the learned Judicial Magistrate, Thuraiyur and consequently, direct the learned Judicial Magistrate, Thuraiyur, to recall the Sub Inspector of Police, Uppiliyapuram Police Station along with case diary relating to the complaint, vide C.S.R No.507 of 2012, dated 23/12/2012 and examine him as witness in CC No.39 of 2014.

For Petitioner : Mr.D.Shanmugaraja Sethupathi

For Respondents : M/s.J.Maria Roseline
(No appearance)

O R D E R

This petition has been filed by the petitioner seeking to set aside the order passed in Criminal Revision No.2/2018, dated 13.04.2018 by the learned II Additional District and Sessions Judge, Tiruchirappalli, dismissing the revision petition and confirming the order, dated 30/11/2017 passed in C.M.P No.4478 of 2017 by the learned Judicial Magistrate, Thuraiyur and consequently, direct the learned Judicial Magistrate, Thuraiyur, to recall the Sub Inspector of Police, Uppiliyapuram Police Station along with case diary



relating to the complaint, vide C.S.R No.507 of 2012, dated 23/12/2012 and examine him as witness in CC No.39 of 2014.

2.The petitioner is the complainant before the trial court and she filed a private complaint, which is also taken cognizance by the trial court in CC No.39 of 2014. The allegation against the accused person is that during the course of trial proceedings in O.S No.181 of 1990 before the District Munsif Court, Thuraiyur, the second accused was examined as a witness and he impersonated one Anand, s/o.Thandavan and gave the evidence that he signed as a attesting witness in the disputed sale deed that was subject matter of the above said suit. In fact, the 2nd accused real name is Sundaram and he signed as such in the muchalika, which was executed in the criminal complaint before the Inspector of Police, Uppiliyapuram Police Station.

3.On the above said facts, the writ petition filed by the complaint for punishing the accused persons. During the course of trial process, the petitioner filed a petition under section 97 of Cr.P.c seeking a direction to the concerned police authorities to produce the enquiry file in respect of CSR No.507/2012 and that came to be dismissed by the trial court. Later he filed a petition in Crl.MP No.4478 of 2017 under section 311 of Cr.P.C to examine the Inspector of Police, attached to Uppiliyapuram Police Station by producing the relevant enquiry file, which also came to be dismissed by the trial court stating that earlier when the petition filed under section 91 of Cr.P.C was dismissed. For the very same reason, the application under section 311 of Cr.P.C has been filed. That is not maintainable. On that ground, it was dismissed by stating for the same reasons, which is assailed by the petitioner in this petition.

4.During the course of argument, the learned for the petitioner would submit that liberty may be granted to the petitioner to file appropriate petition under section 246 Cr.P.C before the trial court at the appropriate time for appropriate relief.

5.Even though larger issue is involved in this matter, since the impersonation alleged to have been committed during the course of trial proceedings in the civil dispute, the petitioner ought to have filed a petition under section 340 Cr.P.C before the concerned court, before which the impersonation has been committed. It appears that without resorting to such a course of action, the private complaint has been filed. So the trial court may also go on into the legality of the private complaint and as requested by the learned counsel appearing for the petitioner, **liberty is granted to the petitioner to file appropriate petitioner under section 246 of Cr.P.C.**

6.With the above said liberty, this petition stands **disposed**



of. In view of the above said liberty that has been granted by this court, the impugned order passed by the trial court is also set aside. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Records)

WEB COPY

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The II Additional District & Sessions Judge,
Trichy.

2.The Judicial Magistrate,
Thuraiyur.

+1 CC to M/s.D.SHANMUGARAJA SETHUPATHI, Advocate (SR-5825[F] dated 14/02/2022)

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MGJ(25.02.2022) 3P 4C