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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 02/12/2022

CORAM

The Hon'ble Mr.Justice **G.ILANGO VAN**

Cr1.RC(MD)No.1132 of 2022

Kanagaraj @ Pandian : Petitioner/Petitioner

Vs.

1.Chitra

2.Sivakumar

3.Subramani

: R1 to R3/Proposed
Accused

4.The Inspector of Police,
Natham Police Station,
Dindigul.

: R4/Complainant

Prayer:- This Criminal Revision has been filed under section 397 r/w 401 of the Criminal Procedure Code to call for the records pertaining to the order, dated 26/10/2022 passed by the Judicial Magistrate, Natham, Dindigul District in Cr1.MP No.1411 of 2022.

For Petitioner : Mr.B.Vinoth Kumar

For R1 to R3 : No appearance

For 4th Respondent : Mr.SS.Madhavan
Government Advocate
(Criminal side)



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O R D E R

This Criminal Revision has been filed seeking in order to set aside the order, dated 26/10/2022 passed by the Judicial Magistrate, Natham, Dindigul District in CrI.MP No.1411 of 2022.

2.The facts in brief:-

The marriage between the petitioner and the first respondent was performed, on 23/05/2012. Right from the marriage, the first respondent namely Chitra was not keeping her good conduct and she was having illegal contact with some other person. At one point of time, she left the matrimonial home and living with one Sivakumar. At that time, she was taken the child along with her. Later, both of them married, on 12/08/2013. Through the above said Sivakumar, she delivered a female child. When that was enquired, the petitioner was abused and criminally intimidated. So on the basis of the above said occurrence, he lodged a complaint with the Nathan Police station on, 05/09/2022. But no action was taken. So, he filed a private complaint under section 156(3) Cr.P.C before the trial court seeking direction. That was



dismissed by the trial court on the ground that absolutely, there is no *prima facie* ground available to direct the respondent police to conduct the investigation.

3.Now challenging the above said order, this criminal revision has been filed on the ground that apart from the second marriage, there was criminal intimidation and abusive, etc. and that was not properly discussed by the trial court.

4.To know the result of the complaint that was given by the petitioner against the respondents, entire enquiry file has been called for and the learned Government Advocate (Criminal side) has also produced the enquiry file.

5.On perusal of the entire enquiry file shows that on the basis of the complaint given by the petitioner, enquiry was conducted in CSR No.836 of 2022. During the course of enquiry, it was found that the above said Chitra without properly remarrying the above said Sivakumar, living with him in an illegal manner and



through him, she delivered a female child also. The above said Chitra has given a statement to the effect that since it is a matrimonial issue, she will work out her remedy through the proper civil process. On the basis of the above said statement of the above said Chitra, the above said complaint was closed.

6. Further it is seen that a panchayat was arranged in the village with regard to the above said affair. In the panchayat also, the above said Chitra has stated that she is not willing to live with the petitioner. Since no ground was found to show that there was a second marriage, the above said complaint was closed.

7. Now by adding the allegation that he was abused and criminally intimidated, the above said complaint has been filed before the trial court. But no such allegation has been made by the petitioner when he lodged a complaint before the respondent police. It is nothing, but an improvement for the purpose of making non cognizance offence as cognizance offence.



8. So this clearly amounts to abuse of process of court and law. On that sole ground, this criminal revision is liable to be dismissed, of course with liberty to the petitioner that if any evidence is available to show that there was second marriage between the Chitra and the above said Sivakumar, he is at liberty to vindicate his grievance by filing a complaint under section 200 Cr.P.C

9. With the above said liberty, this criminal revision stands **dismissed**.

02/12/2022

Index: Yes/No
Internet: Yes/No
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To,

The Judicial Magistrate,
Natham,
Dindigul District.



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