



Crl.R.C.No.1164 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2023

CORAM

THE HONOURABLE MRS. JUSTICE **R. HEMALATHA**

Crl.R.C.No.1164 of 2023

Venkatesh

... Petitioner

Vs.

State rep by Inspector of Police,
Mathigiri Police Station,
Krishnagiri District.
(Cr.No.315 of 2015)

2.Nagamma

... Respondent

Prayer : Criminal Revision filed under Section 397 r/w.401 of Criminal Procedure Code to set aside the order dated 19.07.2022 made in Crl.MP.No.1002 of 2019 in CC.No.315 of 2015 on the file of the Judicial Magistrate No.II, Hosur.

For Petitioner : Mr.P.M.Jayachandran

For Respondent : Mr.J.Subbiah, GA (Crl.side) for R1.

M/s.R.Poornima for R2.

ORDER

The present criminal revision petition is directed against the order dated 19.07.2022 passed by the Judicial Magistrate No.II, Hosur in Crl.MP.No.1002 of 2019.

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2. The defacto complainant filed the said Crl.MP under Section 319 Cr.PC against the Sub Inspector of Police, Mathigiri police station as well as against one Nagamma.

3. The main contention of the complainant is that though Nagamma was also involved in the commission of offence under Section 294(b) IPC, she has not been implicated in the present case by the police. Therefore, summons has to be issued to her and charges have to be framed against her also. The Judicial Magistrate No.II, Hosur after hearing the defacto complainant, the Investigating Officer and the first respondent had dismissed the application filed by the present revision petitioner by observing thus :-

“9. On perusal of Crl.MP. petition filed by the petitioner PW1 statement, List of documents no new facts already those mentioned in FIR is made out against Nagamma. Already charge sheet and altered report has been filed by IO stating the reasons for alteration of sections. Hence, this petition is dismissed.”



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4. Though, in the FIR, the name of Nagamma finds a place, , the present complainant under Section 161(3) Cr.PC statement made before the police had stated that only Nanjappa, Nagaraj, Muniraj s/o.Lachumayya and Muniraj s/o.Sombayya alone committed the offence. However, in his deposition before the concerned Judicial Magistrate, the defacto complainant as PW1 had deposed that Nagamma also abused him in filthy language. He was cross examined by the defence counsel. Thiru.Rajasekar/PW2 did not support the case of the prosecution. Therefore, he was treated as hostile by the prosecution with the leave of the Court. Thereafter, no witnesses have been examined on the side of the complainant. In the meanwhile, the present complainant has filed the petition under Section 319 Cr.PC to include the name of Nagamma as an accused in the present case.

5. Section 319 Cr.PC gives power to the Court during inquiry or trial to add an accused which it feels has to be included as accused and tried in the same trial.



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6. In the instant case except the uncorroborated testimony of PW1, there is nothing on record to show that Nagamma also abused the defacto complainant in filthy language. The trial Court is not convinced with the evidence of PW1. However, it is left open to the trial Court to find out the truth and veracity of PW1 with regard to his allegations against Nagamma, after examining the other witnesses and if the Court comes to a conclusion that Nagamma should also be included as an accused, summons can be issued to her.

7. At this stage, the present criminal revision petition is dismissed. No costs.

10.07.2023

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
tsh

To
1.The Public Prosecutor, High Court, Madras.
2.The Judicial Magistrate No.II, Hosur.
3. The Inspector of Police, Mathigiri Police Station, Krishnagiri District.

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