



Crl.R.C.No.1080 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.03.2023

CORAM :

THE HONOURABLE Dr. JUSTICE **G.JAYACHANDRAN**

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Palanisamy

.. Petitioner

Vs.

1. Santhamurthy
Inspector of Police,
Pallipalayam Police Station,
Namakkal District.

2. Jagadeesh,
Sub Inspector of Police,
Pallipalayam,
Namakkal District.

3. Kumar
S/o.Chandrasekaran

4. Selvam
S/o.Ramasamy

5. Boopathy
Boopathy Tex,
Thiruchengode Road,
Pallipalayam,
Komarapalayam Taluk,
Namakkal District.



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6. Nallasamy
Jayakrishna Textiles,
Kovai Main Road,
Vellakkoil,
Tiruppur District.

7. Sakthi
Sakthi Tex,
Thiruchengode Road,
Pallipalayam,
Namakkal District.

..Respondents

PRAYER : Criminal Revision Case has been filed under sections 397 read with 401 of Criminal Procedure Code to set aside the order dated 14.08.2020 made in C.M.P.No.54 of 2020 on the file of the Judicial Magistrate Court, Komarapalayam and to allow the above Criminal Revision Petition.

For Petitioner	:	No appearance
For R1	:	Mr.C.Prabakaran
For R2	:	Mr.J.Jayan
For R3	:	No appearance
For R4 to R7	:	Mr.N.Maokaran

ORDER

This Criminal Revision Case has been filed by one Palanisamy, being aggrieved by the dismissal of the petition filed under Section 156(3) of Cr.P.C by the Judicial Magistrate, Komarapalayam.



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2. The sums and substances of the private complaint is

that the complainant is running a partnership firm under the name of Sree Ganga Tex along with one Kumar. Initially, the partnership firm was formed by the complainant/Palanisamy, daughter Sharmila, son Arun Kumar and mother Vasanthi. Thereafter, Arun Kumar and Vasanthi retired from partnership firm leaving the complainant/Palanisamy and another partner Kumar. The other partner Kumar also got relieved from the partnership firm on 02.01.2020 and thereby it has become a Proprietary concern. However, the erstwhile partner Arun Kumar and the third accused Kumar together had given a false complaint to the police and based on the complaint, the police has registered a case in Crime No.1 of 2020 on 01.02.2020 and arrested the complainant, daughter Sharmila, son Chandru, Srinivasan and Ganesan and subsequently, left out on bail. It is alleged that the another complaint by one Selvam was lodged against the complainant and his family members and the same was registered under Crime No.8 of 2020. Based on the false complaint, the police trespassed into the shop, broke open the shutters and removed the textile materials. Again, with the connivances of the police, the



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accused persons 3 to 7 came with labourers in five lorry and removed the textile materials kept in the godown and caused theft of the property worth Rs.4 Crores. Alleging that inspite of complaint given to the police, the respondents 1 and 2, who are the police officials, have not taken any action, private complaint was filed against two Government of police officials and five private persons.

3. The learned Magistrate, after perusing the complaint, held that the first respondent and the second respondent are police Inspector and Special Sub Inspector respectively. They have registered complaint against the complainant and are investigating the same. While so, the private complaint alleging that the police officials, in connivance with other accused, had committed theft deserved to be dismissed, since sanction under Section 197 of Cr.P.C from the competent authority had not been obtained. This order of the Magistrate is under challenge in this revision petition. Though the revision petition filed and pending for more than three years, when the matter is taken up for consideration, in the last occasion, there was no representation, hence, posted for today i.e., 30.03.2023. Even today, there is no representation for the petitioner.



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4. Mr.N.Manoharan, the counsel appearing for the respondents 4 to 7 submitted that the dispute arose between the partners and complaint has been filed against the petitioner herein and the same is pending. While so, alleging that complaint is not investigated, this private complaint has been filed and the learned Magistrate rightly dismissed. However, the textile material which is alleged to have been stolen by the respondents herein, in fact the case property in Crime No.8 of 2020 in which the respondents 1 and 2 have investigated and filed final report. It is also submitted that the petitioner herein has already filed an application before the Trial Court under Section 451 Cr.P.C for return of the material seized by the police in connection with the Crime No.8 of 2020.

5. The learned counsel appearing for the respondents 1 and 2, the Inspector and Special Sub Inspector for public servants, submitted that the private complaint, they are the public servants in respect of action done in the course of their duty and therefore, without prior sanction under Section 197 of Cr.P.C. no Court can take cognizance for



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the offences. Therefore, the order of the Trial Court is in accordance with law and to be sustained.

6. This Court, after perusing the records and the order impugned, finds no reason to interfere, since it is in accordance with law and the Trial Court had rightly dismissed the private complaint against the public servants for want of sanction. Hence, this Criminal Revision Petition is dismissed.

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Internet : Yes/No

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