



WEB COPY



CrI.R.C.No1169 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.01.2023

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CrI.R.C.No.1169 of 2020 and
CrI.M.P.No.15909 of 2022

N.S.Suresh

...Petitioner

Vs-

1. Rajendran
2. Periyasamy
3. Muthukumar
4. Giri @ Vellaiyangiri

...Respondents

Prayer: Criminal Revision Case filed under Sections 397 read with Section 401 of Cr.P.C. to call for the records in C.M.P.No.2336 of 2019 dated 14.02.2020 passed by the learned Judicial Magistrate, Thiruchengodu, and set aside the same so far it affect the petitioner so far as issuing process to the respondent and deal with them in accordance with law to secure the ends of justice.

For Petitioner : Mr.R.Sankarasubbu

Respondents : R1 – No appearance
Mr.T.S.Arthnareeswaran for R2 to R4



CrI.R.C.No1169 of 2020

ORDER

The revision petitioner filed a private complaint under Section 200 Cr.P.C. against the respondents and one another before the learned Judicial Magistrate, Thiruchengodu, in C.M.P.No.2336 of 2019 and the same was dismissed on 14.02.2020. Aggrieved over the dismissal of the private complaint, the petitioner is before this Court with the present revision.

2 Learned counsel appearing for the petitioner would submit that the petitioner filed a complaint before the Commissioner of Police, Namakkal District against the respondents and one another viz. Deputy Superintendent of Police and also to the various police higher officials through registered post, since no action has been taken on his complaint, the petitioner filed a private complaint before the learned Judicial Magistrate, Thiruchengodu.

2.1 The learned counsel would further submit that the petitioner being an Advocate went to the land in dispute along with his clients. At that time, first accused along with these respondents came to the land and picked



up quarrel with the petitioner and the first accused being a police higher official, scolded the petitioner in a filthy language and threatened him. The petitioner narrated the entire incident in the private complaint also, but the learned Magistrate taken the complaint on file as against the first accused alone for the offence under Section 294(b) and 506(i) IPC and dismissed the same against these respondents. The learned Magistrate failed to consider the fact that these respondents also accompanied the first accused at the time of occurrence and committed the offence. Hence the order of the learned Magistrate insofar as dismissing the complaint against these respondents is liable to be dismissed.

3 The learned counsel appearing for the respondents 2 to 4 would submit that since no *prima facie* case has been made out against the respondents 2 to 4, the learned Magistrate dismissed the complaint against them giving well founded reasons. Therefore this revision against the respondents 2 to 4 is liable to be dismissed.



WEB COPY 4 Heard both the learned counsel and perused the materials available on record.

5 A careful perusal of the private complaint filed by the petitioner before the learned Magistrate reveal that there are *prima facie* allegations against these respondents also. Even though the learned Magistrate accepted the allegations against the first accused and issued summons under Section 204 Cr.P.C. however, rejected the complaint as against these respondents.

6 Once *prima facie* allegations made in the private complaint and averments regarding commission of offence, the Magistrate has to take the private complaint on file and summon all the accused under Section 204 Cr.P.C. and examine the witnesses and give his findings and simply the Magistrate cannot dismiss the complaint. Therefore this Court is inclined to set aside the order of the learned Magistrate insofar as dismissing the complaint against these respondents.



Crl.R.C.No1169 of 2020

7 Accordingly the impugned order passed by the learned Judicial

Magistrate, Thiruchengodu, in C.M.P.No.2336 of 2019 dated 14.02.2020, is hereby set aside as far as the dismissal of complaint against these respondents is concerned. The learned Magistrate is directed to summon all the accused and proceed with the complaint in accordance with law.

8 with the above observations and directions, this criminal revision is allowed. Consequently connected miscellaneous petition is closed.

09.01.2023

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation Case : Yes/No

cgi
To

The Judicial Magistrate, Thiruchengodu.



WEB COPY



Crl.R.C.No1169 of 2020

P.VELMURUGAN, J.,

cgi

Crl.R.C.No.1169 of 2020 and
Crl.M.P.No.15909 of 2022

09.01.2023