



Crl.R.C.No.1695 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.10.2023

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1695 of 2023

Velmurugan

... Petitioner

Vs.

1.Natraj
2.Dravin
3.Ravichandran
4.Nagaraj
5.Ajithkumar

... Respondents

Prayer: Criminal Revision Petition filed under Sections 397 and 401 of Criminal Procedure Code, to set aside the order passed in Crl.M.P.No.2528 of 2020 by the learned Judicial Magistrate No.I, Coimbatore, Coimbatore District dated 20.06.2023.

For Petitioner : Mr.K.Balaji



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ORDER

The petitioner filed a private complaint before the learned Judicial Magistrate No.I, Coimbatore to forward the complaint under Section 156(3) of Cr.P.C. On his complaint, a sworn statement was recorded on 28.04.2021 and his wife was examined as P.W.1 on 16.08.2021. Thereafter, due to continuous absence of the complainant and no representation from the year 2021, notice was sent to the complainant in D.No.1107/2023 dated 09.05.2023 and the case was dismissed for non-appearance of complainant and finding that no sufficient ground exists to proceed against the accused further.

2.The contention of the petitioner is that the petitioner has been victimized by his own employees and his contractor. The petitioner raised objection for his transfer to Karnataka. The petitioner approached the Central Administrative Tribunal, Chennai and obtained a stay of the order of transfer which has not been appreciated by the Department and his co-employees, namely, Natraj, Dravin, Ravichandran, Nagaraj and Ajithkumar. The co-employees produced the transfer order and threatened



the petitioner to get relieved. The petitioner has sought for stay of transfer for the reason that his daughters were at the crucial stage of education and further, the Corona had affected them psychologically. The petitioner earlier lodged a complaint to the Inspector of Police, Thudiyalur Police Station on 30.07.2020. Though C.S.R.No.365 of 2020 has been assigned, no action has been taken. The petitioner thereafter sent a representation to the Superintendent of Police, Coimbatore on 20.08.2020. Only thereafter, he filed a petition under Section 156(3) of Cr.P.C. before the learned Judicial Magistrate No.I, Coimbatore. Thus, the petitioner had followed all the provisions and filed the complaint. The petitioner and his wife were examined with reference to the complaint. The Trial Court, without considering the merits of the case, had dismissed the case for non-prosecution. The petitioner in support of his contention had produced the typed set of papers with a copy of the complaint before the Trial Court, a sworn statement, statement of his wife and the order passed by the learned Judicial Magistrate No.I, Coimbatore dated 20.06.2023.



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3.It is seen that the sworn statement of the petitioner has been relied upon and the statement of his wife has also been recorded. Since the petitioner had been continuously absent from the year 2021, final notice has been served to him and thereafter, the complaint has been dismissed for non-appearance of the complainant and no ground exists to proceed against the proposed accused. The Trial Court order must have explicitly shown the discussion of the available materials in the case as on date and thereafter, the order on merits ought to have been passed. Hence, the order passed by the learned Judicial Magistrate cannot be sustained and is liable to be set aside.

4.At this juncture, the learned counsel for the petitioner, on instructions, submitted that the petitioner will appear before the Lower Court on 15.11.2023 without fail and make his submissions on the date fixed by the Lower Court.

5.In view of the above, the order passed in Crl.M.P.No.2528 of 2020 by the learned Judicial Magistrate No.I, Coimbatore dated 20.06.2023, is set



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aside. Consequently, the petitioner is directed to appear before the Lower Court on 15.11.2023 and thereafter, on any other day as fixed by the Lower Court. On such appearance of the petitioner, the Lower Court is directed to pass final orders on merits without further delay.

6. With the above observations, the criminal revision petition stands disposed of.

11.10.2023

Index : Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

hvk

Note: Issue order copy on 17.10.2023

To

The Judicial Magistrate No.I,
Coimbatore.



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M.NIRMAL KUMAR, J.

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