



Crl.R.C.(MD)No.82 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 05.06.2023

CORAM

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C.(MD)No.82 of 2019
and
Crl.M.P.(MD)No.1624 of 2019

C.Kannan @ Ramesh Kannan

... Petitioner

Vs.

1.The State Rep.by
The Inspector of Police,
Avaniyapuram Police Station,
Madurai
(Crime No.1342 of 2018)

2.C.Pitchai

... Respondents

PRAYER : Criminal Revision Case filed under Section 397 r/w 401 of Code of Criminal Procedure, to call for the entire records pertaining to the order passed by the learned Judicial Magistrate No.VI, Madurai in Cr.M.P.No.669 of 2019 dated 18.02.2019 in connection with the case in Cr.No.1342 of 2018 pending on the file of the first respondent and set aside the same.

For Petitioner : Mr.R.Anand



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For R1 : Mr.M.Vaikkan Karunanithi,
Government Advocate (Crl. Side)

For R2 : Mr.S.Muniyandi

ORDER

This Criminal Revision Case has been filed to set aside the order passed by the learned Judicial Magistrate No.VI, Madurai in Cr.M.P.No. 669 of 2019 dated 18.02.2019 in connection with the case in Cr.No.1342 of 2018 pending on the file of the first respondent.

2.The petitioner is an accused in the complaint lodged by the second respondent herein. The second respondent lodged a complaint and the same was registered in Cr.No.1342 of 2018 for the offence under Sections 147, 294(b), 323 and 506(2) IPC. After completion of investigation, the first respondent closed FIR as mistake of fact and also served RCS notice on 22.08.2018 to the second respondent.



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3.On receipt of the same, the second respondent filed a petition under Section 173(8) Cr.P.C., thereby sought for statements recorded under Section 161(3) Cr.P.C., and other documents, which were collected during investigation along with final report, in order to file a protest petition against closure of FIR as mistake of fact.

4.In the said application, the trial Court ordered to record sworn statement of the defacto complainant, without even rejecting the final report submitted by the first respondent. In fact, the second respondent, sought for copies of the statements recorded under Section 161 (3) Cr.P.C., and other documents, which were collected during investigation to file protest petition. While pending the said application, the trial Court ought not to have ordered to record sworn statement of the defacto complainant.

5.It is made clear that the trial Court ought to have passed an order on the application submitted by the second respondent seeking



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documents to file proper protest petition. After passing order on the said application and after passing orders on the referred charge sheet submitted by the first respondent, the trial Court has to pass order for recording sworn statement.

6.In view of the above, the docket order passed by the trial Court cannot be sustained and it is set aside. The learned trial Court is directed to pass orders on the application submitted by the second respondent and proceed in accordance with law. Accordingly, this criminal revision case is allowed. Consequently, connected miscellaneous petition is closed.

05.06.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To



CrI.R.C.(MD)No.82 of 2019

- 1.The Judicial Magistrate No.VI,
Madurai.
- 2.The Inspector of Police,
Avaniyapuram Police Station,
Madurai.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.K.ILANTHIRAIYAN,J.

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