



Crl.R.C(MD) No.451 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :11.09.2023

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THE HONOURABLE MR.JUSTICE P.DHANABAL

Crl.R.C(MD) No.451 of 2019

Velayutham

... Petitioner

-Vs-

1.C.Arun
2. Saravanan
3. Abdul Sahib
4. Viswanathan

... Respondents

PRAYER:- Criminal Revision Petition is filed under section 397 and 401 of Cr.P.C to call for the records pertaining to the order dated 28.05.2019 made in C.M.P.No.1565 of 2019 on the file of the learned Judicial Magistrate No.II,Kulithalai, Karur and set aside the same and allow the Criminal Revision Petition.

For Petitioner : No appearance

For Respondents : Mr.G.Kannan

ORDER

This Criminal Revision has been filed to set aside the order passed by the learned Judicial Magistrate No.II,Kulithalai, Karur in C.M.P.No.1565 of 2019 dated 28.05.2019.



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2. There is no representation on behalf of the petitioner on the earlier occasion, hence the matter is ordered to be listed under the caption 'For dismissal'. Even today there is no representation on behalf of the petitioner. Though none appeared on behalf of the petitioner since the matter is criminal revision as per the judgment of the Hon'ble Apex Court the criminal revision has to be disposed on merits, hence this Court after hearing the respondent and perusing the records inclined to pass orders on merits.

3. According to the petition, the petitioner namely Velayutham had given complaint before the learned Judicial Magistrate No.II, Kulithalai, Karur District under Section 200 of Cr.P.C stating that on 10.01.2019 at about 9.00 a.m., the sons of the petitioner namely Saran and Sugan were travelling the two wheeler and at about 11.30 a.m., while they were crossing Marudur Police beat, the first accused stopped the vehicle. At that time when they questioned him why they were being intercepted there arose a small altercation between the first respondent and the sons of the petitioner. Thereafter the first respondent abused them in filthy language and the respondents 2 to 4 who were present there had attacked the son of the petitioner with lathies and caused severe injuries. After receipt of information the defacto complainant went to place of occurrence and on knowing about the incident gave complaint before the Superintendent of



Police, no action was taken. Further in order to escape from the clutches of law the police officers filed a complaint before the Inspector of Police, Kulithalai and the same was registered in Crime No.16 of 2019 for the offences under Sections 294(b), 353 and 506(i) of IPC against the sons of the petitioner. Thereafter the petitioner filed a private complaint before the learned Judicial Magistrate No.II, Kulithalai, Karur District and the learned Magistrate has dismissed the same vide order dated 28.05.2019, holding that previous sanction under Section 197 of Cr.P.C was not obtained and no prima facie case made out for taking cognizance.

4. Being aggrieved by the said order this revision has been filed on the ground that police officer upto the rank of the Inspector of Police can be removed by the Inspector General of Police and public servant must be of the rank not removal of officer saved by or with the sanction of the Government. In this case the order of sanction of order is not necessary and the respondents can be removed by the Inspector General of Police. The trial Court solely dismissed the petition on the ground that previous sanction under Section 197(1) of Cr.P.C is necessary and the same is against the judgement report in 2018(2) Lw.Crl. The traffic police do not have power to physically assault the public and they can only enquire about the persons and they cannot take the law in hand and attack the sons of the petitioner. These aspects have not been taken into consideration by the trial Court and therefore the order passed by the trial Court is liable to be set



aside.

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5. No representation on behalf of the petitioner

6. The learned counsel appearing for the respondents would contend that the alleged occurrence took place while discharging the official duty by the respondents and thereby previous sanction under Section 197(1) of Cr.P.C is necessary and at the same time the complaint itself there is no specific allegation as against the respondents and there are major discrepancies between the complaint and statement recorded by the learned Magistrate thereby the private complaint was dismissed by the learned Magistrate.

7. This Court has heard the arguments of the learned counsel for the respondent and perused the records.

8. Upon perusing the records it is observed that on the date of occurrence the petitioner's sons were riding in a two wheeler and at that time the respondents have intercepted and enquired and at that time there was a wordy quarrel between the sons of the petitioner and the respondents. On the basis of the complaint given by the first respondent First Information Report has been registered as against the son of the petitioner in Crime No.16 of 2019 for the offences under Sections 294(b),



353 and 506(i) of IPC. Therefore the petitioner filed private complaint before the learned Judicial Magistrate No.II, Kulithalai and the same was dismissed on the ground that sanction under Section 197 of Cr.P.C has not been obtained and also there are material contradictions in respect of the place of occurrence.

9.This Court also perused the sworn statement and on that perusal they revealed that on 10.01.2019 when the son of petitioner, P.W.1 along with his brother came by two wheeler the police stopped them and he also stopped the vehicle, immediately the police slapped on his cheek and used obscene words. When the same was questioned by the brother of P.W.2, he assaulted on his mouth and he got blood injuries but they have not produced any medical records for the above said injuries. Further there is no specific words mentioned in the statement as about the obscene words and the petitioner has not produced any said documents to prove the *prima facie* case. However on perusal of the order passed by the learned Magistrate it is observed that the learned Magistrate had dismissed the petition on two grounds. First ground is previous sanction is necessary under Section 197(1) of Cr.P.C, but the Hon'ble Supreme Court as well as this Court has held that the officers not below the rank of Inspector of police can be removed by the Inspector General of Police, thereby previous sanction under Section 197(1) of Cr.P.C., is not necessary to register the case against the cadre of Inspector of Police, Sub Inspector of Police and



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Constable.

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10.However the learned Magistrate has not dismissed the application on the sole ground and taking into account that the place of occurrence mentioned as check post but in the complaint it is mentioned as Maruthur Police beat at Kumaramangalam . Further discussed about the statements given by the witnesses since there are discrepancies between the statement of witnesses and the complaint the trial Court had dismissed the petition. Therefore this no infirmity in the order passed by the trial Court and thereby this Court has no warrant to interference with the order of the trial Court, hence the revision petition is liable to be dismissed.

9. Accordingly the Criminal Revision stands dismissed.

11.09.2023

Index : Yes/No
Internet : Yes/No
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To

The Judicial Magistrate No.II,Kulithalai, Karur



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P.DHANABAL, J.

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