



Crl.R.C.(MD) No.598 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.598 of 2023

and

Crl.M.P.(MD)No.8622 of 2023

Manickam

... Petitioner/
Petitioner/
Defacto
Complainant

Vs.

1. Nijam

2. Sadhik

3. Harish

...Respondents/
Respondents/
Accused

4. The Inspector of Police,
Tallakulam Police Station,
Madurai.
(Crime No.2586 of 2020)

...Respondent/
Respondent/
Complainant

Prayer : This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, to allow this criminal revision petition



Crl.R.C.(MD) No.598 of 2023

setting aside the order dated 01.06.2023 made in Cr.M.P.No.5414 of 2022 in C.C.No.456 of 2022 on the file of the learned Judicial Magistrate No.II, Madurai.

For Petitioner : Mr.S.Balaji
For R4 : Mr.SS.Madhavan,
Government Advocate (Crl. side)

ORDER

This Criminal Revision is directed against the order passed in Crl.M.P.No.5414 of 2022 in C.C.No.456 of 2022 dated 01.06.2023 on the file of the Judicial Magistrate No.2, Madurai, dismissing the petition filed under Section 319 Cr.P.C.

2. On the basis of the complaint lodged by the petitioner, FIR came to be registered in Crime No.2586 of 2020 against 3 persons for the offences under Sections 294(b), 323 and 506(1) IPC. The fourth respondent, after completing the investigation, has laid the final report under Section 173 Cr.P.C. against the same 3 persons for the offences under Sections 294(b), 323 and 506(1) IPC and the same was taken on file in C.C.No.456 of 2022.



Crl.R.C.(MD) No.598 of 2023

3. It is evident from the records that after framing of necessary charges and when the case stands posted for trial, the petitioner/defacto complainant has filed the above application under Section 319 Cr.P.C. for adding one Abdul Ahamed as an accused in the above case.

4. The main contention of the petitioner is that the said Abdul Ahamed is his land-lord, that the said Abdul Ahamed has been taking steps to forcibly evicting the petitioner with the help of hooligans and that on 27.12.2020 at 21.50 hours, the said Abdul Ahamed along with Sathik and Harish, sons of Nijam and one other unknown person came to the place of the petitioner and attacked him. He would further submit that when the petitioner was taken to the hospital, he has specifically mentioned that he was attacked by 5 persons, but the respondent police, without registering an FIR on the basis of the complaint given by him, had taken a signature in a blank paper and on that basis, the present FIR came to be registered.

5. The learned Government Advocate (Criminal Side) appearing for the fourth respondent would submit that only on the basis of the



Crl.R.C.(MD) No.598 of 2023

complaint given by the petitioner, FIR came to be registered and on proper investigation, the present charge sheet came to be filed against 3 persons, who were all involved in the incident. He would further submit that the petitioner for the first time has felt out that the said Abdul Ahamed is the main accused and at his instigation, the above incident came to be occurred. He would further submit that in the charge sheet as well as in the documents filed along with the charge sheet, there is absolutely no mention about the said Abdul Ahamed and the petitioner has not produced any material to implicate the said Abdul Ahamed.

6. On the basis of the charge sheet and other materials available on record, the learned Magistrate has also framed the charges and posted the case for trial. Even the learned counsel appearing for the petitioner would admit that as of now there are no material available against the said Abdul Ahamed before the concerned Court.

7. No doubt, Section 319 Cr.P.C. contemplates that in the course of any enquiry into, or trial of, an offence, if it appears from the evidence that any person not being the accused has committed any offence, the



Crl.R.C.(MD) No.598 of 2023

Court can proceed against such person for the offence which he appears to have committed.

8. As already pointed out, the trial is yet to be commenced. After the commencement of trial, if the evidence adduced discloses the involvement of the said Abdul Ahamed in the occurrence, then the Court by itself can add the other person or at that time, the petitioner can very well invoke Section 319 Cr.P.C. for adding the said person.

9. Considering the above, the impugned order dismissing the petition filed under Section 319 Cr.P.C., cannot be found fault with.

10. In the result, this Criminal Revision case is dismissed. However, the petitioner is at liberty to invoke Section 319 Cr.P.C. after the commencement of trial, if so advised.

19.06.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
csm



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Crl.R.C.(MD) No.598 of 2023

K.MURALI SHANKAR, J.

csn

To:-

- 1.The Inspector of Police,
Tallakulam Police Station,
Madurai.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

**ORDER MADE IN
Crl.R.C.(MD)No.598 of 2023
and
Crl.M.P.(MD)No.8622 of 2023**

Dated : 19.06.2023