



Crl.O.P.(MD)No.13144 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	24.11.2023
Pronounced on	22.12.2023

CORAM

THE HONOURABLE **MR.JUSTICE R.SAKTHIVEL**

Crl.O.P.(MD) No.13144 of 2020

S.Girinivasa Prasad

... Petitioner

Vs.

1.T.D.Sanjay

2.The Inspector of Police,
Eraniel Police Station,
Eraniel, Kanyakumari District,
Represented by the Public Prosecutor,
Kanyakumari District.

... Respondents

Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, 1973, to set aside the order passed by the learned Additional District and Sessions Judge, Kanyakumari District at Nagercoil in Crl.R.P.No.51 of 2018 dated 05.11.2019 and confirmed the order of Judicial Magistrate, Eraniel in Cr.M.P.No.6588 of 2017 dated 16.10.2018.

For Petitioner : Mr.S.Ramasamy

For R1 : No Appearance

For R2 : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor



Cr.L.O.P.(MD)No.13144 of 2020

ORDER

WEB COPY

This Criminal Original Petition has been filed on 09.11.2020 praying to set aside the order passed by the learned Additional District and Sessions Judge, Kanyakumari District at Nagercoil [henceforth 'Appellate Court'] in Criminal Revision Petition No.51 of 2018 dated 05.11.2019.

2. Brief facts of the Case is as follows:

The petitioner herein filed a private complaint under Section 200 of 'The Criminal Procedure Code, 1973 (Act No.2 of 1974)' [henceforth 'Cr.P.C.' for the sake of brevity], before the District Munsif cum Judicial Magistrate Court, Eraniel, [henceforth 'Trial Court'] wherein the petitioner herein has stated that he is an Advocate by profession doing legal services to the poor for the past 13 years; that the first respondent has filed a false complaint before the Deputy Inspector General of Police and the District Collector on February 10th, 2016; that after enquiry, the said complaint was closed; that the said complaint was given by the first respondent with a view to defame the petitioner's reputation; that the act of the first respondent would attract the offence under Section 500 of 'The Indian Penal Code' 1860 (Act No.45 of 1860)' [henceforth 'IPC' for the sake of brevity]. Accordingly, the petitioner herein filed a complaint under Section 200 of Cr.P.C. and an affidavit in support of the petition.



Crl.O.P.(MD)No.13144 of 2020

3. The Trial Court after perusing the complaint, came to the conclusion that the petitioner and the first respondent had money transactions; that due to this, the aforementioned complaint has been filed; and that the offence under Section 499 of IPC has not been made out since the complaint given by first respondent is *bonafide* in nature. Accordingly, the Trial Court dismissed the complaint on 16.10.2018.

4. Feeling aggrieved with the said order, the petitioner herein filed a Revision under Section 397 of Cr.P.C. before the Appellate Court. The learned Sessions Judge after hearing both sides and after perusing the case file, dismissed the Revision Petition.

5. Mr.S.Ramasamy, the learned counsel appearing for the petitioner submitted that the Trial Court did not consider the case in a proper perspective and dismissed the complaint filed by the petitioner. Further he submitted that the Appellate Court also did not consider the matter in right perspective and passed a non speaking order. Accordingly, he prayed to allow this petition.

6. Mr.R.Meenakshi Sundaram, learned Additional Public Prosecutor submitted that the learned Sessions Judge passed a detailed speaking order.



Crl.O.P.(MD)No.13144 of 2020

Hence, the revision against the order passed under Section 397 of Cr.P.C is not maintainable. Further, the Trial Court as well as the Appellate Court passed the orders on merits only after detailed discussion of the materials on record. Hence, there is no merit in the Criminal Original Petition. Hence, the Criminal Original Petition is not maintainable and deserves to be dismissed.

7. This court has perused the case file. The diary extract of the Appellate Court's order has been annexed in Page No.16 of the Type set. A scanned reproduction of the same is as follows:

RP.54/18 Dt: 05.11.2019

Order Pronounced:-

In fine,

This Revision Petition is dismissed and the order passed by the learned Judicial Magistrate Eraniel in Crl.MP.No.6588/17 on 16.10.2018 is hereby confirmed. No costs.


A.D & S.J.



Crl.O.P.(MD)No.13144 of 2020

8. To be noted, this court checked the e-courts website for the order of the Appellate Court in Criminal Revision Petition No.51 of 2018 and found that a detailed speaking order has been uploaded. The operative portion of the order dated 05.11.2019 passed in Criminal Revision Petition No.51 of 2018 by the Appellate Court as uploaded in e-courts website, reads as follows:

“8. The learned Judicial Magistrate also considered the enquiry of the Inspector of police and the report thereon. Considering the fact that there are allegation as against the Petitioner including criminal cases and the complaint as against the petitioner is one Tamil Nadu Prohibition of Charging Exorbitant Interest Act and the complaint is in the Nasal stage and no First Information Report seems to have been registered and there are proceedings pending as against the petitioner and the Ist Respondent and hence at this stage question of defaming the petitioner will not arise especially when the proceedings are pending. Though for the different reasons. I am unable to hold that the offence u/s 499 of IPC can be invoked at this stage and by the petitioner. At any cost in the result I am concurring with the ultimate decision of learned Judicial Magistrate and accordingly the order passed by the learned Judicial Magistrate is hereby confirmed and the revision petition is dismissed. No costs.

9. In fine,



Crl.O.P.(MD)No.13144 of 2020

This Revision Petition is dismissed and the order passed by the learned Judicial Magistrate Eraniel in Crl.MP.No.6589/17 on 6.10.2018 is hereby confirmed. No costs.”

9. To be noted, in the operative portion of the above order, Crl.M.P.No. has been wrongly mentioned as 'Crl.M.P.No.6589/19' instead of 'Crl.M.P.No. 6588/2017'. This Court has considered both side submissions. In the Trial Court's order as annexed in the typed set, it has been stated that the petitioner and the first respondent had money and other transactions and that the complaint given by the first respondent herein to the Police Official as is *bonafide* in nature and would not attract the offence under Section 499 of IPC. Accordingly, the Trial Court dismissed the complaint filed by the petitioner under Section 200 of Cr.P.C.

10. In revision, the learned Sessions Judge after narrating all the facts and circumstances of the case has dismissed the Revision Petition. This Court has perused the detailed speaking order passed by the Appellate Court. The Court does not find any irregularity or illegality in the order of the Appellate Court. Hence, the submissions made by the learned counsel for the petitioner does not have any merit. Hence, the Criminal Original Petition deserves to be dismissed.



Crl.O.P.(MD)No.13144 of 2020

WEB COPY 11. Accordingly, this Criminal Original Petition is dismissed. No cost.

22.12.2023

(2/2)

NCC:yes/no
Index:yes/no
Internet:yes/no

Nsr/jen

To

- 1.The Inspector of Police,
Eraniel Police Station,
Eraniel, Kanyakumari District.
- 2.The Additional District and Sessions Judge,
Kanyakumari District at Nagercoil.
- 3.The Judicial Magistrate,
Eraniel.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.O.P.(MD)No.13144 of 2020

R.SAKTHIVEL, J.

Nsr/jen

Crl.OP(MD).No.13144 of 2020

22.12.2023

(2/2)