



Crl.R.C.(MD).No.778 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **16.03.2023**

CORAM:

THE HONOURABLE MR.JUSTICE **G.ILANGO VAN**

Crl.R.C.(MD).No.778 of 2022

Tamilselvi

... Petitioner

Vs.

1.Sangeetha

2.The Inspector of Police,
Alangudi Police Station,
Pudukkottai District.

... Respondents

(R2 suo motu impleaded as party respondent in this case as per the order dated 15.11.2022)

PRAYER: Criminal Revision Case is filed under Section 397 r/w 401 of Cr.P.C, to call for the records and set aside the order dt.07.06.2022 passed by the Judicial Magistrate, Alangudi, in Crl.M.P.No.1574 of 2022.

For petitioner : Mr.T.Lenin Kumar

For Respondents : Mr.C.Arul Vadivel @ Sekar for R1

Mr.M.Sakthi Kumar for R2
Government Advocate (Crl. Side)



ORDER

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This Criminal Revision Case has been filed to set aside the order dated 07.06.2022, passed by the learned Judicial Magistrate, Alangudi, in Crl.M.P.No.1574 of 2022.

2.The facts in brief:

The revision petitioner herein filed a petition under Section 156(3) of Cr.P.C. before the trial Court with the following allegations. On 17.07.2019, one Shanthi and her children picked up quarrel with her father at about 10.00 p.m. But however, they lodged the complaint against her father. On 18.07.2019 at about 09.30. p.m. the complainant enquired the above said persons about the complaint. At that time, she abused her in filthy language and criminally intimidated. The above said Santhi snatched 7 soverigns of gold jewels. In that process, she sustained injury on the neck region and other two persons joined and assaulted. She attacked the police through phone. She was advised to give complaint in writing. So, she gave a complaint in a short form. The injury sustained by her was also noted by the Sub Inspector of Police namely Sangeetha. The case was registered in Crime No.129 of 2019 under Sections 294(b), 323, 506(ii) and 379 of IPC against the above said persons.



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3.The above said Sangeetha did not investigate the matter properly and did not recover the jewels. She started to support the above said accused. She was detained in the police station itself. When she was detained in the police station, she received counter complaint from the opposite party and assaulted her. A case was registered in crime No.124 of 2019 against her and her husband. So the above said Sangeetha is liable to be prosecuted under Sections 166, 217, 218, 219 and 221 of IPC. In respect of repeated complaint no proper action was taken by the police. So she filed a petition under Section 156(3) of Cr.P.C. seeking direction to the police to enquire and register the case. That was taken by the trial Court in Crl.M.P.No.1574 of 2022 and dismissed by pointing out that the provisions of 154(3) of Cr.P.C. was not complied by the petitioner. Finding that no ground has been made out, the complaint was dismissed. Against which, this revision has been preferred.

4.The records from the trial Court as well as CD file in respect of the Crime No.123 of 2019 has been called for and perused.

5.A simple allegation against the police official stating that no proper investigation has been undertaken by the respondent, for which, she legally bound to face.



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6.It is a case in counter and which one of the occurrence is true is a matter for consideration by the Investigating Officer. The Crime No.123 of 2019 is now investigated by one Sivakumar, the Sub Inspector of Police. Only in respect of the above said investigation, now complaint has been made by the petitioner that the above said Sangeetha has not taken proper process. Perusal of records shows that on 18.07.2019 Sangeetha examined the petitioner and recorded her statement, so also her husband and one Saroja and Muthu and later the investigation has been undertaken by Sivakumar, the Sub Inspector of Police from 24.09.2019. So it is seen that only a portion of the investigation has been undertaken by Sangeetha. After completing the investigation process only Sivakumar has filed the final report. Final report was filed on 28.09.2019. Now the trial process is going to be undertaken by the trial Court and the respondent is also shown as one of the witness. So she is going to give evidence in the above said trial Court.

7.Similarly, in respect of the counter case in Crime No.124 of 2019 has been called for and perused. Perusal of the above said also shows that the respondents undertook the preliminary investigation. Later it was continued by the above said Sivakumar. So it is nothing but counter case



as stated above. Now final report has also been filed and this revision petitioner is also shown as accused and she has to face the trial process.

So during the course of the trial process whatever defence that are available to her may be put to the above said Sangeetha. We need not go into those aspects now.

8.The only point, which arises for consideration is whether any *prima facie* material has been placed by this petitioner before the trial Court in referring the complaint to police enquiry. No doubt that in a series of judgments, it has been clarified by the Honourable Supreme Court that the complaint must be given under Section 154 of Cr.P.C. and thereafter, only further process can be undertaken. But we need not go into that aspect. Now because even as per the order that has been passed by the trial Court without exhausting remedy under Section 154 Cr.P.C. this complaint was filed.

9.Whatever it may be, the factual circumstances of the case clearly shows that the respondent was the initial Investigating Officer. Whether she has failed in her duty to investigate the matter properly can be agitated at the time of trial in both the cases in counter cases and this complaint is nothing but an act of defence, which this petitioner has to



Crl.R.C.(MD).No.778 of 2022

take up during the trial process. So I am of the considered view that this complaint itself is nothing but a malafide one.

10. But however, the learned counsel for the petitioner would submit that failure on the part of the respondent in undertaking the proper investigation is liable to be prosecuted and punished, but the petitioner must wait till the disposal of the above said case and counter case. Depending upon the finding to be rendered by the trial Court, if aggrieved, the petitioner can file private complaint. Now it is too a premature stage to prosecute the 1st respondent.

11. In the result, this Criminal Revision Case is dismissed, of course, with liberty to file appropriate complaint, if so advised.

16.03.2023

Index : Yes/No
Internet : Yes/No
TM

To

1. The Judicial Magistrate, Alangudi.

2. The Inspector of Police,
Alangudi Police Station,
Pudukkottai District.



Crl.R.C.(MD).No.778 of 2022

WEB COPY

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Crl.R.C.(MD).No.778 of 2022

G.ILANGOVA. J.

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Crl.R.C.(MD).No.778 of 2022

16.03.2023