



Crl.R.C(MD)No.917 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 23.03.2023

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C(MD)No.917 of 2017
and
Crl.M.P(MD)No.11201 of 2017

1.Seetharaman

2.Sulochana

3.Philips

4.Pandiyan

5.Rajesh

...Petitioners

Vs.

A.Ansardeen

...Respondent

Prayer : This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records in Cr.M.P.No. 3040 of 2016, dated 28.04.2017 on the file of the Judicial Magistrate No.1, Tiruchirappalli and set-aside the same.

For Petitioners : Ms.J.Maria Roseline

For Respondent : Mr.B.Jameel Arasu



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ORDER

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This Petition has been filed challenging the cognizance taken by the trial Court in the private complaint lodged by the respondent in Cr.M.P.No.3040 of 2016 on the file of the learned Judicial Magistrate No.I, Trichy.

2. The learned counsel for the petitioners would submit that all the petitioners are Police Officials and they have been falsely implicated as accused in a private complaint lodged by the respondent. The learned Magistrate without considering the nature of allegation mechanically taken cognizance and issued summons. She further submitted that even according to the respondent, he sustained small injuries in the custody and as such, the learned Judicial Magistrate has to see if there is prior sanction from the District Collector as per Police Standing Order 157. Admittedly, the trial Court had taken cognizance without even obtaining any sanction, in order to prosecute the petitioners in the manner known to law. She further submitted that the respondent is a habitual offender and he already convicted in C.C.No.81 of 2016 for the offences under Sections 294(b) and 506(i) of IPC. In fact, in that case, he has attacked the Special Sub Inspector of Police, attached to the Fort Police Station,



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Trichy and the FIR has been registered in Crime No.129 of 2016 for the offences under Sections 147, 148, 294(b), 353, 332, 506(ii) of IPC. In pursuance to the said FIR, he was arrested and remanded to judicial custody. Therefore, in order to escape from the clutches of law, he lodged the present complaint without any iota of evidence. Therefore, cognizance itself is against the law and it is liable to be set aside.

3. Per contra, the respondent would submit that the respondent's son was taken to custody and when the respondent entered into police station to enquire about his son for illegal custody, immediately he was also taken into custody and he was beaten with foot. Therefore, the respondent sustained grievous injury and in fact after his illegal detention, a false FIR has been foisted as against the respondent in Crime No.129 of 2016 for the offences under Sections 147, 148, 294(b), 353, 332, 506(ii) of IPC., and he was produced before the learned Magistrate. Thereafter, he had taken to Jail Authorities and on verification, they found injuries on him. Therefore, they refused to take him to jail. After verification by the jail Doctor, he was referred to Government Hospital Trichy for treatment. The Doctors, who treated him by the Jail as well as Government Hospital were examined in



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support of the respondent's case as PW7, PW8 and PW9. Therefore, the respondent made out *prima facie* case to take cognizance by the trial Court and rightly issued summons to the petitioners and it is does not warrant interference by this Court.

4. Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the respondent.

5. On the private complaint lodged by the respondent, the trial Court taken cognizance, after examining 9 witnesses along with the respondent and issued summons to the petitioners, who are being the accused. The case of the respondent is that his minor son, who was aged about 17 years, taken to police custody by the petitioners and as such the respondent went to the police station for enquiry. Immediately, they released his son and taken him to illegal custody. On perusal of his evidence revealed that he is the leader of one Association and they refused to give mamool. Therefore, the petitioners went to the respondent house and enquired about the respondent. When the respondent was not available, they had taken his minor son, who was studying 11th standard to the police station. After hearing the same,



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immediately, the respondent went to the police station and he was taken to illegal custody and the petitioners had beaten him and as such he sustained grievous injury. They also threatened him with dire consequence. After his custody, they have registered an FIR in Crime No.129 of 2016 for the offences under Sections 147, 148, 294(b), 353, 332, 506(ii) of IPC., as if he has attacked the Special Sub Inspector of Police one Arokiasamy, S/o.Irudhayasamy, while he was on night patrolling duty on 19.02.2016, whereas, he was taken to illegal custody from 10.30 p.m. to early morning 03.00 a.m. i.e. on 20.02.2016. The alleged FIR in Crime No. 129 of 2016 was registered on 20.02.2016. Therefore, it is seen on the face of it that it is a false FIR registered as against the respondent in order to escape from the illegal custody and also had beaten him in the foot.

6.That apart, there were not disclose the injury sustained by him before remanded to Magistrate. Thereafter, he had taken to Jail Authorities and on verification, they found injuries on him. Therefore, they refused to take him to jail. After verification by the jail Doctor, he was referred to Government Hospital and immediately he was taken to Hospital and admitted as inpatient from 20.02.2016 to 26.02.2016. The



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Doctors, who treated him by the Jail as well as Government Hospital were examined in support of the respondent's case. Therefore, the respondent sustained grievous injury. Being the victim sustained injuries was in police custody need not get sanction in order to prosecute the police officials. That apart when the police officials were discharging their official duty, if anything happened, the sanction is very much required, whereas the respondent illegally detained and brutally attacked by the petitioners herein without any wrong committed by him. Therefore, the trial Court has rightly taken cognizance as against the petitioners and this Court does not find infirmity or illegality in the order passed by the trial Court.

7. Accordingly, this Criminal Revision Case stands dismissed with a direction to the trial Court to complete the trial as expeditiously as possible preferably within a period of six months from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is closed.

23.03.2023

NCC : Yes / No
Index : Yes / No
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G.K.ILANTHIRAIYAN, J.

vsd

To
The Judicial Magistrate No.1,
Tiruchirappalli.

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