



Crl.R.C.(MD).No.1241 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.02.2023

CORAM

THE HONOURABLE MR. JUSTICE G.ILANGO VAN

Crl.R.C.(MD).No.1241 of 2022

Tamilarasan

... Petitioner/Defacto Complainant

Vs.

1.State rep. by,
The Deputy Superintendent of Police,
Musiri Sub-Division,
Trichy District.

2.The Inspector of Police,
Uppiliyapuram Police Station,
Trichy District.

... Respondents/Complainants

3.Chandru

... 3rd Respondent/3rd Accused

PRAYER: This Criminal Revision Case is filed under Sections 397 r/w 401 of the Criminal Procedure Code, to call for the records pertaining to the order passed in Crl.M.P.No.65 of 2021, on the file of the I Additional District and Sessions Judge (PCR), Trichy, dated 11.07.2022 and set aside the same and change the investigation in Crime No.391 of 2021 by the respondent police.



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For Petitioner : Mr.A.Vadivel

For Respondents : Mr.M.Sakthi Kumar for R1 & R2
Government Advocate (Crl. Side)

Mr.G.Vidhya Maheswaran

ORDER

This revision case has been preferred against the order that has been passed in Crl.M.P.No.65 of 2021, on the file of the I Additional District and Sessions Judge (PCR), Trichy, dated 11.07.2022 and to change the investigation in Crime No.391 of 2021 by the respondent police.

2.The facts in brief:

The petitioner is the defacto complainant in this case and he filed a complaint before the respondent police. Over which, a case in Crime No.391 of 2021, under Sections 294(b), 323, 506(i) of IPC and Section 3(1) (r)(s) & 3(2)(va) SC/ST (POA) Act, has been registered against three persons. In the course of the investigation, the Investigating Officer filed a report stating that the third accused was not at all present in the place of occurrence and he was no way involved in the above said occurrence. So he filed the above said report deleting the third accused's name. Against which, the present petitioner filed the impugned petition seeking transfer of



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investigation to some other person, on the ground that the third accused was very well present in the place of occurrence and he caused assault. Because of the assault made by the above said third accused and other person, he was admitted in the hospital and underwent treatment. During the course of investigation, the statement of L.W.2 to L.W.11 were recorded. On the basis of the above said statement of the eye witnesses the above said deletion was made.

3.Now the learned counsel for the revision petitioner would submit that the above said third accused was very well present in the place of occurrence and he only caused the assault. Without proper investigation, he was removed or deleted from the final report. In the complaint and as well as the statement, which was recorded at the initial stage, the petitioner implicated the above said Chandru. But, when his evidence was recorded on 17.08.2021, he has alleged to have stated that the third accused Chandru was not present in the place of occurrence, but by mistake he has mentioned his name. The earlier statement was recorded on 14.08.2021, subsequent statement was recorded on 17.08.2021. Similarly, one Janaki has changed her version during subsequent examination. One Susila, also changed her version. One Vijay, Uma, Maharani, also changed their version during the



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subsequent examination. One Thiagarajan, Rajalingam, Selvam, Ponnai, has also stated that the Chandru was not present in the place of occurrence.

But one Manimegalai has stated that the third accused was also present in the place of occurrence; He caused assault on the left ear lobe of the injured.

It is seen that the eye witnesses were given different statement with regard to the presence of the aforesaid Chandru in the place of occurrence and assault.

4.The background facts are necessary for disposing this matter. On 09.08.2021 at about 3.30 p.m., in the Panchayat Office, they were making enquiry with regard to the works that was undertaken under the Government Programme. The defacto complainant is the 8th Ward Member. The accused Nos.1 and 2 are the husband and wife. The deleted third accused is their son. Quarrel arose between them at the time of the above said talk. The learned counsel for the third respondent would submit that the above said person is not at all involved in the above said occurrence and he was not present in the place also. Even contra statements have been given by the eye witnesses to the occurrence, by giving liberty to the petitioner to file a private complaint under Section 200 Cr.P.C., the Special Court has dismissed his request.



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5. In view of the above said factual circumstances, I am of the considered view that even during the course of trial, if really the third accused is involved in the case that may be brought on record, at the appropriate time both the prosecution as well as this revision petitioner can very well maintain petition under Section 319 Cr.P.C. Therefore, this is a premature stage to decide whether the third accused is involved in the above said occurrence or not. For that purpose no further investigation may not also be required.

6. With the above said liberty this petition stands **dismissed**.

07.02.2023

Index : Yes / No
Internet : Yes / No
TM

To

1. The Deputy Superintendent of Police,
Musiri Sub-Division,
Trichy District.

2. The Inspector of Police,
Uppiliyapuram Police Station,
Trichy District.



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

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G.ILANGO VAN,J.

TM

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