



CrI. R.C.(MD)No.318 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATE : 27.03.2023

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

CrI.R.C.(MD)No.318 of 2023

and

CrI.M.P(MD)No.4609 of 2023

A.Iruthayaraj

.. Petitioner

Vs.

1.Veerapandi

2.The Inspector of Police,
Soorankudi Police Station,
Vilathikulam, Thoothukudi District.

.. Respondents

(R2 is *suo-motu* impleaded as per of this Court, dated 23.03.2023
in CrI.R.C(MD)No.318 of 2023)

Prayer : This criminal revision case is filed under Section 397 r/w. Section 401 of Cr.P.C., to call for the pertaining to the impugned order passed in Cr.M.P.No.1718 of 2019, dated 01.07.2022 passed by the learned District Munsif cum Judicial Magistrate, Vilathikulam, Thoothukudi District and set aside the same as illegal.

For Petitioner : Mr.T.Thirumurugan



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For Respondents : Mr.M.M.Manivel Pandian, for R1
: Mr.R.Meenakshi Sundaram,
Additional Public Prosecutor, for R2.

ORDER

The Criminal Revision Case is directed against the order passed in Cr.M.P.No.1718 of 2019, dated 01.07.2022 on the file of the learned District Munsif cum Judicial Magistrate, Vilathikulam, Thoothukudi District.

2. The petitioner has filed a private complaint against the respondent under Section 200 Cr.P.C., for the alleged offences under Sections 167, 323, 294(b) and 506(i) I.P.C. Admittedly, the first respondent was working as Special Sub Inspector of Police, Soorankudi Police Station at the alleged occurrence time.

3. The learned counsel for the petitioner would submit that the respondent has registered a false case against the petitioner in Crime No.24 of 2019 and that the petitioner was arrested and remanded to judicial custody. He would further submit that the first respondent had attacked the



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petitioner and caused injuries. The learned Judicial Magistrate has taken the petition on file in Cr.M.P.No.1718 of 2019 and by observing that statements of two witnesses have already recorded and the petitioner side endorsed no further evidence, has directed the Inspector of Police, Soorankudi Police Station, to conduct enquiry under Section 202 Cr.P.C., (wrongly mentioned as 203 Cr.P.C.,) and file a report, vide order dated 01.07.2022.

4. The main contention of the petitioner is that the learned Magistrate should not have directed the Inspector of Police to conduct enquiry under Section 202 Cr.P.C, since the Magistrate has taken the case on file and proceeded to conduct enquiry. I find no merit in the said contention, as the Magistrate is having jurisdiction to direct the Police to conduct enquiry under Section 202 Cr.P.C and to call for a report.

5. Section 200 of Cr.P.C requires the Magistrate to examine the complainant and any witnesses present in oath, to satisfy himself about the existence of the *prima facie* case. After recording the testimonies of the complainant and the witnesses, the Magistrate has three options ;



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(i) The Magistrate may postpone the issue of process awaiting further enquiry by himself or investigation by Police or by any other person as he deems fit under Section 202 CrPC.

(ii) The Magistrate, if no *prima facie* case is shown and no reasonable foundation for prosecution exists, may dismiss the complaint under Section 203 of Cr.P.C.

(iii) The Magistrate, may issue a process under Section 204 of Cr.P.C, if a *prima facie* crime is established.

6. Enquiry contemplated under Section 202 Cr.P.C is to find out as to whether there is *prima facie* materials against the accused for the purpose of issuing process. After deciding to postpone the process, the Magistrate under Section 202 Cr.P.C has to decide as to whether the enquiry is to be conducted by himself or through the Police Officer or any other person.

7. To put it in short, the purpose of enquiry under Section 202 Cr.P.C is to determine whether *prima facie* case is made out and whether there is sufficient ground for proceeding against the accused.



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8. In the case on hand, the learned Magistrate, after recording the testimonies of the defacto complainant, has decided to postpone the issue of process and to proceed under Section 202 Cr.P.C and that the Magistrate has chosen to direct the Police Official to conduct an enquiry and to submit the report.

9. Considering the above, the action of the learned Judicial Magistrate in directing the Police Official to conduct an enquiry and submit a report under Section 202 Cr.P.C is very much proper and the same cannot be found fault with.

10. When the matter is taken up for hearing today, the learned counsel for the petitioner would submit that it would suffice that some other Inspector of Police may be directed to conduct enquiry under Section 202 Cr.P.C.

11. The learned Additional Public Prosecutor appearing for the State would submit that the first respondent who was earlier working as Special Sub Inspector of Police, Soorankudi Police Station has been transferred to some other Station on 19.07.2020. He would further submit



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that the Police Officials who were working in Soorankudi Police Station at the alleged occurrence time, are not available now in the Soorankudi Police Station. He would also submit that Mr.Veerasolai, Inspector of Police, has taken charge of the post of Inspector of Police in the last month.

12. Considering the above facts and circumstances, the said Inspector of Police, Soorankudi Police Station, is hereby directed to conduct enquiry under Section 202 Cr.P.C as directed by the learned Magistrate, vide order dated 01.07.2022 and file a report within a period of one month from the date of receipt of copy of this order. The Deputy Superintendent of Police, Vilathikulam, is directed to monitor the enquiry to be conducted by the Inspector of Police, Soorankudi Police Station.

13. With the above directions, the Criminal Revision is disposed of. Consequently, connected Miscellaneous Petition is closed.

27.03.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
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To

- 1.The Deputy Superintendent of Police,
Vilathikulam.
- 2.The Inspector of Police,
Soorankudi Police Station,
Vilathikulam, Thoothukudi District.
- 3.The Section Officer, Criminal Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

das

Order made in
Crl.R.C.(MD)No.318 of 2023
and Crl.M.P(MD)No.4609 of 2023

27.03.2023