



CrI.R.C.No.118 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

CrI.R.C.No.118 of 2023

Murugan

...Petitioner/*De-facto* Complainant

Vs.

1.State by the Inspector of Police,
Kadathur Police Station,
Crime No.147 of 2015,
Erode District.

... 1st Respondent/Complainant

Rangasamy (died)

2.Ponnammal @ Palaniammal,

3.Thirumurthy

... Respondents/Accused 2 and 3

PRAYER: Criminal Revision Petition filed under Section 397 and 401 of the Cr.P.C., to call for the records relating to the order dated 07.10.2022 made in STC No.916 of 2015 on the file of the Judicial Magistrate No.2, Gopichettipalayam and set aside the same.



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For Petitioner : Mr.N.Manoharan
For Respondents : Mr.V.Meganathan,
Government Advocate (Crl.Side)
for R1

No appearance for R2 and R3

ORDER

The revision has been filed challenging the order passed by the learned Judicial Magistrate No.2, Gobichettipalayam, discharging the accused since the prosecution had not produced witnesses for a period of seven years from 05.12.2015 to 14.09.2022.

2. The learned counsel for petitioner/*de-facto* complainant would submit that the order of discharge has affected the petitioner's rights as a victim; that no summons were issued to the witnesses and for the fault of the first respondent, the petitioner's right to prosecute the accused cannot be taken away.

3. The learned Government Advocate (Crl.Side) for the first respondent *per contra* submitted that it is a fact that since the summons of



witnesses could not be served and considering the fact that only bailable offences were charged against the accused, the learned Magistrate had discharged the accused and in fact the charge against A1 would abate on account of his death.

4. The offence alleged against the accused is under Section 447 of the IPC. In fact, the petitioner aggrieved by the fact that the first respondent had not filed the final report for the offence under Section 506(i) of the IPC and had dropped one accused in the final report had filed a petition under Section 173(8) of Cr.P.C., which came to be dismissed on 04.01.2020 by the learned Magistrate in C.M.P.No.3765 of 2016. The petitioner had challenged the same before this Court in Crl.R.C.No.114 of 2020 and since the impugned order was passed, the said revision was closed on 15.12.2022.

5. The order of the learned Magistrate not only states that the prosecution had not taken steps to produce the witnesses for 7 years, but also recorded the fact that the learned counsel for the petitioner had appeared before the learned Magistrate and sought a stay of the proceedings



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since the Criminal Revision Petition No.114 of 2020 challenging the dismissal of the petitioner's application under section 173(8) was pending before this Court. Therefore, it is not only the respondent, who had delayed the proceedings but the petitioner also had contributed to the delay.

6. Considering the nature of offences and the reasons given by the learned Magistrate for discharging the accused, this Court is of the view that there is no infirmity warranting an interference in the above revision.

7. Admittedly, the petitioner is now in possession of the property and it is needless to say, if there is any interference from any party, he can always pursue his remedy in the manner known to law.

8. With the above direction, the Criminal Revision Case stands dismissed.

15.11.2024

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To

1. The Judicial Magistrate No.2,
Gopichettipalayam.

2.The Inspector of Police,
Kadathur Police Station,
Erode District.

3.The Public Prosecutor,
Madras High Court.



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SUNDER MOHAN., J.

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