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Crl.R.C.No.678 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.R.C.No.678 of 2023

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... Petitioner

Vs.

1.The State Rep. by
Inspector of Police,
Perumpalai Police Station,
Dharmapuri District.
(Crime No.87 of 2018)

2.Vijaya
3.Ganesan

... Respondents

Prayer:

Criminal Revision Case filed under Section 397 r/w 401 of Criminal Procedure Code, seeking to call for the records in C.M.P.No.2723 of 2022 on the file of District Munsif Cum Judicial Magistrate Court, Pennagaram and set aside the same.

For Petitioner : Mr.K.Sudhakar

For Respondents : Mr.A.Gopinath for R1
Government Advocate (Crl. Side)
Mr.C.Palanisamy for R2
R3 – NRN



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ORDER

This criminal revision has been filed seeking to set aside the order dated 27.01.2023 passed by the District Munsif Cum Judicial Magistrate Court, Pennagaram in C.M.P.No.2723 of 2022.

2.The learned counsel appearing for the petitioner submitted that the petitioner is the defacto complainant and there was property dispute inbetween the petitioner and the accused and the accused attacked the petitioner, thereby he sustained injuries. Hence the petitioner lodged complaint as against four accused namely, Vijaya, Ambika, Sakunthala and Anbalagan and a case was registered by the law enforcing agency in Cr.No.87 of 2018 for the offence under Sections 294(b), 323 and 324 of I.P.C. and after investigation, the law enforcing agency filed charge sheet as against the respondents 2 and 3. Thereafter the law enforcing agency filed petition under Section 319 of Cr.P.C. in C.M.P.No.2723 of 2022 before the trial Court seeking to implicate Sakunthala and Anbalagan as accused, however, the trial Court dismissed the said petition.

3.The learned counsel appearing for the petitioner further



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submitted that P.W.1 and P.W.2 in their evidence have deposed that Sakunthala abused the defacto complainant using filthy language and kicked him at his stomach and Anbalagan attacked the defacto complainant and threatened him with dire consequences. When such evidence is available, the trial Court dismissing the petition seeking to add Sakunthala and Anbalagan as accused is not sustainable one.

4.In support of his contentions, the learned counsel appearing for the petitioner relied upon the decision of the Hon'ble Apex Court reported in 2022 (3) MWN (Cr.) 497 (SC) [Sukhpal Singh Khaira Vs. State of Punjab], particularly paragraph 33 III. (i) of the decision wherein it is held that 'If the Competent Court finds evidence or if Application under Section 319 of Cr.P.C., is filed regarding involvement of any other person in committing the offence based on evidence recorded at any stage in the trial before passing of the order on acquittal or sentence, it shall pause the trial at that stage;'. The learned counsel further submitted that during trial, the trial Court can implicate the person who was involved in the offence at any stage, whileso, the trial court dismissing the petition filed by the law enforcing agency is not sustainable one.



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5.The learned Government Advocate (Crl. Side) appearing for the first respondent submitted that admittedly, the petitioner lodged complaint as against four accused namely, Vijaya, Ambika, Sakunthala and Anbalagan and a case was registered by the law enforcing agency in Cr.No.87 of 2018 and after investigation, the law enforcing agency filed charge sheet as against the respondents 2 and 3. Subsequently, based on the evidence let in by P.W.1 and P.W.2, the law enforcing agency filed petition under Section 319 of Cr.P.C. in C.M.P.No.2723 of 2022 before the trial Court seeking to implicate Sakunthala and Anbalagan as accused, however, the trial Court dismissed the said petition.

6.Perusal of records reveal that there is no incriminating material available to implicate Sakunthala and Anbalagan as accused. This Court is unable to understand what is the material available to the law enforcing agency to implicate the said persons in the case except the statement of P.W.1 and P.W.2. In the AR copy and wound certificate is written five known persons and no name is mentioned and no other documentary evidence is available to implicate the said persons as accused. Hence, the trial Court rightly dismissed the



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petition filed by

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the law enforcing agency under Section 319 of Cr.P.C., which warrants no interference.

7.In view of the above, this criminal revision case is dismissed.

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Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

To

1.The District Munsif Cum Judicial Magistrate Court,
Pennagaram.

2.The Inspector of Police,
Perumpalai Police Station,
Dharmapuri District.
(Crime No.87 of 2018)



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M.DHANDAPANI,J.
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