



Crl.RC.No.894 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.06.2024

CORAM :

THE HONOURABLE **MR. JUSTICE M.DHANDAPANI**

Crl.RC.No.894 of 2024
and
CRL.MP.No.7663 of 2024

Mangayarkarasi

.. Petitioner

Vs.

1. Gnanaprakasam
2. Anusuya

... Respondents

Petition filed under Sections 397 r/w 401 of Code of Criminal Procedure to call for the records relating to the order dated 11.03.2024 passed by the Learned Judicial Magistrate No.I, Madurantakam in Crl.M.P.No.1884 of 2023 in C.C.No.100/2021 and set aside the same.

For Petitioner : Mr.G.Magesh Kumar

For Respondents : Mr.Ali Hasan Khan

ORDER

This Criminal Revision case has been filed Sections 397 r/w 401 of Code of Criminal Procedure to quash the order dated 11.03.2024 passed by



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the Learned Judicial Magistrate No.I, Madurantakam in Crl.M.P.No.1884 of

2023 in C.C.No.100 of 2021

2. The case of the petitioner is that, the petitioner was employed as a Teacher in Ariyapakkam Panchayat Union Middle School. Prior to the marriage between the petitioner and her husband, out of the money earned by the petitioner's husband and her father-in-law, they purchased the properties bearing S.Nos.327/11, 327/12, 327/13, 327/4 of an extent of 8 cents situated in Ariyapakkam and registered the same in the name of one Gnanaprakasam who is none other than the brother of the petitioner's husband. Since the said Gnanaprakasan and his wife who are the respondents herein, gave hindrance to the family members of the petitioner, the petitioner / complainant has made a private complaint in C.C.No.100 of 2021 u/s.200 of Cr.P.C. r/w.294 (B), 323, 324 & 506 (ii) of IPC on the file of Judicial Magistrate No.1, Madurantakam seeking to issue a direction to the police authorities to take action against the respondents u/s.156 (3) of Cr.P.C. During the course of the prosecution, the petitioner filed a petition u/s.244(1) of Cr.P.C in Crl.M.P.No.1884 of 2023 in C.C.No.100 of 2021



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seeking to examine two independent witnesses on behalf of the complainant, however, the said complaint was dismissed vide order dated 11.03.2024, on the ground that the said independent witnesses as alleged by the petitioner were not present at the scene of occurrence and also on the ground that the said witnesses were not examined as parties in the individual complaint filed by the complainant. Challenging the same, the present petition has been filed.

3. Learned counsel for the petitioner submits that as per Section 244 of Cr.P.C. when a warrant case has been instituted otherwise than on a police report the accused appears or is brought before a Magistrate, the Magistrate shall hear the prosecution and take all evidence as may be produced in support of the prosecution and the Magistrate, based on the application of the prosecution, may issue summons to any of the witnesses directing him to attend or to produce any document. However, in the present case on hand, the petitioner was restrained by the trial Court from examining the witnesses and dismissed the petition filed u/s.244 of Cr.P.C. which is *per se* unsustainable.



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4. Per contra learned counsel for the respondents submitted that in order to drag the proceedings, the petitioner had unnecessarily filed a petition u/s.244 of Cr.P.C before the trial Court. As the alleged witnesses are in no way connected to the incident rightly the petition was dismissed by the court below, which does not require any interference.

5. Heard the learned counsel for the petitioner and the learned counsel for the respondents and perused the materials placed on record.

6. Admittedly, there was a land dispute between the petitioner and the respondents. It is alleged that the respondents attacked the family members of the petitioner. Thereby the petitioner filed a private complaint to take action against the respondents in C.C.No.100 of 2021 before the trial Court, in which the petitioner has filed a petition u/s.244(1) of Cr.P.C. seeking to examine two independent witnesses on behalf of the petitioner u/s.244(1) before the trial Court in Crl.M.P.No.1884 of 2023 in C.C.No.100 of 2021 as against the respondents, however, the said petition was dismissed. Hence,



the present petition.

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7. The issue arises in the present case is whether the petition u/s. 244(1) of Cr.P.C. filed by the petitioner / complainant seeking to examine witnesses is liable to be dismissed or not?

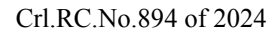
8. For better appreciation, Section 244 Cr.P.C., same is extracted as under:

“ 244.Evidence of Prosecution

(1) When, in any warrant-case instituted other wise than on a police report the accused appears or is brought before a Magistrate, the Magistrate shall proceed to hear the prosecution and take all such evidence as may be produced in support of the prosecution.

(2) The Magistrate may, on the application of the prosecution, issue a summon to any of its witnesses directing him to attend or to produce any document or other thing.”

9. As per Section 244 of Cr.P.C., if a complaint is filed before the Magistrate, the Magistrate ought to have heard the case and ought to have permitted the petitioner to let in evidences in support of the prosecution,



10. Accordingly, for the reasons aforesaid, the Criminal Revision is allowed and the petitioner is directed to produce the witnesses before the trial Court within a period of two weeks from the date of receipt of this order. Upon production of witnesses the trial Court is directed to examine the said witnesses on the date of production of witnesses or on the subsequent date as may be fixed by the trial Court. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No
Speaking order : Yes/No
NCC : Yes/No



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To
Judicial Magistrate No.I, Madurantakam



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M.DHANDAPANI, J.

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