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Crl.R.C.No.1376 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1376 of 2023 and
Crl.M.P.No.11539 of 2023

1.Kancherla Veerayya @ Chinnabbayi

2.Kanchera Srinivas

... Petitioners

Vs.

Kancherla Bala Saroja Bindu Rekha

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 397 & 401 of Criminal Procedure Code, to set aside the order dated 19/7/2022 in Cr.12.No.380 of 2020 in Un-numbered CC on the file of the Judicial Magistrate at Yanam and allow the revision with costs.

For Petitioners : Mr.A.Selvendran for
Mr.V.Moorthi

For Respondent : Mr.R.Hari Krishnan

ORDER

This Criminal Revision Case has been filed to set aside the impugned order, dated 19.07.2022 in C.R.12 No.380/2020 in Un Numbered CC passed by the learned Judicial Magistrate, Yanam wherein the learned Magistrate took cognizance against the petitioners for offence under Sections 379, 447, 201 r/w 34 of IPC on the complaint of the respondent.



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2.The learned counsel for the petitioners submitted that a private complaint has been filed by the respondent before the learned Judicial Magistrate, Yanam wherein cognizance has been taken for offence under Sections 379, 447, 201 r/w 34 of IPC which is against the principles of law. In this case, there are two witnesses examined and sworn statement of the respondent recorded, documents perused and thereafter, finding *prima facie* case against the petitioners, summons have been issued. But in the impugned order, no *prima facie* satisfaction reflected. He further submitted that the Hon'ble Apex Court as well as this Court time and again deprecated this kind of practice adopted by the Court below and held *prima facie* satisfaction must be reflected in the order. In this case, there is no such satisfaction shown.

3.The learned counsel for the respondent opposed the same stating that in the impugned order, dated 19.07.2022, the learned Magistrate took cognizance on the offence committed by the petitioners. On pursuing documents, recording sworn statement and examining two witnesses, the learned Magistrate took cognizance against the petitioners satisfying that



prima facie offence made out. He fairly submitted that the reasons for taking cognizance have not been reflected but only satisfaction has been recorded.

4.Considering the submissions and on perusal of the materials, it is seen that the learned Magistrate except for recording sworn statement of the respondent and examining two witnesses and pursuing documents produced, there is nothing to show in the impugned order that on what basis *prima facie* satisfaction has been arrived. No doubt a detailed order is not required but the basic requirement should be reflected in the order while arriving at the satisfaction. In this case, such satisfaction is not reflected.

5.In view of the same, this Court set asides the impugned order, dated 19.07.2022 in C.C.No.8 of 2022 taking cognizance against the petitioners. The learned Judicial Magistrate, Yanam is directed to consider the evidence and materials afresh and thereafter, to take cognizance if satisfied. In the event of taking cognizance, the same to be reflected in the order.



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6.Considering that the complaint is pending from the year 2019 at the initial stage itself, the learned Judicial Magistrate, Yanam is directed to give preference to this case and complete the trial preferably within a period of six months from the date of taking cognizance.

7.In the result, this Criminal Revision Case stands allowed.
Consequently, the connected Miscellaneous Petition is closed.

04.01.2024

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
Internet: Yes/No

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Note: Issue Order Copy on 04.01.2024.

To

The Judicial Magistrate,
Yanam.



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M.NIRMAL KUMAR, J.

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