



Crl.R.C.No.1471 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

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Kaliyan

... Petitioner

Vs.

1.The State represented by
The Inspector of Police,
Kallakurichi Police Station,
Kallakurichi District.

2.Pandiyan

3.Banu

... Respondents

PRAYER: Criminal Revision Petition filed under Sections 438 r/w. 442 of BNSS to set aside the impugned order dated 07.08.2024 in S.T.C.No.1528 of 2017 passed by the learned Judicial Magistrate No.I, Kallakurichi.

For Petitioner : Mr.G.Balamanikandan

For R1 : Mr.R.Vinothraja
Government Advocate (Crl. Side)

For R2 & R3 : Mr.V.Sundarraman
for Mr.S.Pugalendhi



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ORDER

The petitioner/defacto complainant in Crime No.632 of 2016 filed the above petition seeking to set aside the order passed by the Trial Court in S.T.C.No.1528 of 2017 dated 07.08.2024 under Section 258 Cr.P.C. stopping the proceeding of the trial.

2.The contention of the learned counsel for the petitioner is that on 18.11.2016 at about 3.00 p.m. when the petitioner/defacto complainant was discussing about the land dispute with one Vijayalakshmi and Murugesan, the second respondent/A1 and his wife/third respondent/A2 abused the petitioner in filthy language and attacked him on his mouth by using his hands and also threatened him with dire consequences. Thereafter, complaint lodged, a case in Crime No.632 of 2016 registered for the offence under Sections 294(b), 323 and 506(i) IPC against the second and third respondents and after investigation, charge sheet filed in S.T.C.No.1528 of 2017. He would submit that the second respondent to escape from the above, lodged a counter complaint against the petitioner, a case in Crime



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No.631 of 2016 for the offence under Sections 294(b), 323, 324 and 506(i)

IPC registered and a charge sheet in C.C.No.264 of 2017 is pending before the learned Judicial Magistrate No.I, Kallakurichi wherein the second respondent examined himself as P.W.1 and he was cross examined on the same day. He would further submit that the petitioner and his son are regularly appearing before the Trial Court in C.C.No.264 of 2017, on the other hand, the petitioner is a defacto complainant and witness in S.T.C.No.1528 of 2017 but he was not summoned and the case has been closed. He further submitted that the respondent police very much aware about the petitioner's appearance before the Lower Court but had not responded to the directions issued by the Magistrate in D.No.1441/2024 dated 07.06.2024 and allowed the case to be stopped the proceedings. He would further submit that the case in S.T.C.No.1528 of 2017 and C.C.No.264 of 2017 are in the nature of case in counter and both can be proceeded simultaneously.

3.The learned Government Advocate (Crl. Side) appearing for the first respondent submitted that the petitioner/defacto complainant is an



accused in C.C.No.264 of 2017 but had not cooperated in S.T.C.No.1528 of 2017. The respondent police took summons on several occasions but the same was not received by the petitioner. Thereafter only the respondent police informed the non-cooperative attitude of the petitioner and the Lower Court recording the same stopped the proceedings. Now after the first respondent deposed against the petitioner, he woke up and filed the present petition is nothing to seek a defence in C.C.No.264 of 2017. The petitioner's real intention not to proceed with S.T.C.No.1528 of 2017 and hence, the stoppage of trial is proper.

4.The learned counsel for the respondents 2 and 3 submitted that they are husband and wife, they were attacked by Ayyapparaj, Kaliyan/petitioner herein and Mariyapillai, who are A1 and A3 in C.C.No.264 of 2017. On 18.11.2016, there was a dispute and altercation between two persons in front of Advocate Aravindhan's office verandah at Kallakurichi Noble Street, the second respondent was talking about the same, at that time, the petitioner along with Ayyapparaj and Mariyapillai abused and assaulted the respondents 2 and 3. Suppressing the same, the petitioner lodged a



complaint and the respondents 2 and 3 were shown as accused in S.T.C.No.1528 of 2017. The Trial Court after giving sufficient time finding that the petitioner is not cooperative with the trial and the case is pending for more than five years, closed the case. Now the petitioner finding evidence against them in C.C.No.264 of 2017 filed the present petition to create a defence. It is an off shoot of a civil dispute and they are using the criminal case as a throttle to settle the civil dispute. Hence, the petitioner has not come with clean hands and with proper intention. Therefore, prays for dismissal of this petition.

5.Considering the submissions made and on perusal of the materials, it is seen that the case has been stopped under Section 258 Cr.P.C. for the reason that the petitioner/defacto complainant had not participated in the trial. Now the petitioner has come forward giving an undertaking that he would appear before the Trial Court, depose and cooperate with the trial and will not be a reason for any further delay. The petitioner has got no objections for conducting the trial in S.T.C.No.1528 of 2017 along with C.C.No.264 of 2017. Both the cases can be conducted simultaneously and



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disposed of on the same date. In view of the above, the impugned order passed by the learned Judicial Magistrate No.I, Kallakurichi in S.T.C.No.1528 of 2017 dated 07.08.2024 is set aside. The Trial Court is directed to conduct both S.T.C.No.1528 of 2017 and C.C.No.264 of 2017 together. It is seen that there are only ten witnesses in both the case. Hence, the Trial Court is directed to complete the proceedings in both the cases within a period of three months from the date of receipt of a copy of this order.

6.In the result, the criminal revision petition stands allowed.

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Index:Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation: Yes/No
cse



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To

- 1.The Inspector of Police,
Kallakurichi Police Station,
Kallakurichi District.
- 2.The Judicial Magistrate No.I,
Kallakurichi.
- 3.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

cse

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