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CrI.RC.No.730 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2024

CORAM:

THE HON'BLE MR.JUSTICE **M.DHANDAPANI**

CrI.RC.No.730 of 2024

Gomathi

...Petitioner

Vs.

1. Tamilarasan

2. Selvakumar

3. Sugumar

4. Niranjilkumar

5. Kannadasan

...Respondents

Criminal Revision case filed under Section 397 r/w 401 of Cr.P.C to set aside the order passed in C.C.No.73 of 2018 dated 27.04.2022 on the file of learned Judicial Magistrate No.II, Mannargudi.

For Petitioner : Mr.M.Rajkumar

For Respondents : Mr.N.Veerassamy, for R1, 2, 3 & 5
: Notice not ready, for R4



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ORDER

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This Criminal Revision case has been filed seeking quashment of the order passed in C.C.No.73 of 2018 dated 27.04.2022 on the file of the Judicial Magistrate No.II, Mannargudi.

2. The case of the petitioner is that, due to some previous enmity, on 19.01.2017, when the petitioner and her husband were indulged in agricultural work in their paddy field, the respondents trespassed into the petitioner's paddy field and ploughed the field with an intention to create commotion and when the same was questioned by the petitioner, the respondents abused the petitioner and her husband using filthy language and attacked them using weapons. Thereby, a complaint was registered in Crime No.2018 of 2017, however, no action was taken by the law enforcing agency as against the respondents. Therefore, left with no other alternative, the petitioner filed a private complaint u/s. 294(b), 323 of IPC and Section 4 of the TNPWH Act before the Judicial Magistrate No.II, Mannargudi and the same was taken on file in CC.No.73 of 2018. While so, the trial court, vide impugned order dated 27.04.2022, discharged the respondents from the case.



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Aggrieved by the same, the petitioner has come up with this revision.

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3. Learned counsel for the petitioner submitted that, for mere non-appearance on the part of the petitioner before the trial court on a particular date, the trial court had dismissed the complaint filed by the petitioner, which is not sustainable and the impugned order passed by the trial court is wholly erroneous, as the same was passed, without issuing notice to the petitioner and without affording opportunity to the petitioner to canvass his case, which is a clear violation of principles of natural justice. Further, He further submitted that, the petitioner is ready to examine all the witnesses within the time stipulated by this Court. Accordingly, he prayed for appropriate orders.

4. Learned counsel appearing for the respondents 1, 2, 3 & 5 submitted that, this Court may fix outer limit for the disposal of the main case and the trial court may be directed to afford opportunity and dispose of the case within the stipulated time and further submitted that if the petitioner is not cooperating with trial, necessary direction may be issued to the trial



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court to dismiss the complaint by invoking the provisions of Section 256 of Cr.P.C.

5. Heard learned counsel on either side and perused the material documents placed on record.

6. A perusal of the impugned order reveals that, no opportunity was given to the petitioner and the trial court had directly discharged the accused persons without hearing the petitioner, which is against the principles of natural justice, as necessarily opportunity has to be given to the petitioner to put forth his case.

7. In such view of the matter, the impugned order dated 27.04.2022 made in CC.No.73 of 2018 is set aside and the matter is remanded to the trial court and the trial court, after affording opportunity to both the parties, shall dispose of the complaint within a period of three months from the date of receipt of a copy of this order and the petitioner is directed to appear before the trial court for each and every hearing date and co-operate for the



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trial. Further, the trial court is at liberty to dismiss the petitioner's complaint by invoking the power conferred under Section 256 or 245(2) of Cr.P.C., if the petitioner is not cooperating with the trial.

8. With the above observations and directions, this Criminal revision case stands allowed.

12.06.2024

skt

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

To

The Judicial Magistrate No.II,
Mannargudi.



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M.DHANDAPANI, J.

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