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Crl.R.C.No.1693 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.07.2024

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

Crl.R.C.No.1693 of 2023
and
Crl.M.P.No.16178 of 2023

D.R.Kumar

...Petitioner

Vs.

The Inspector of Police,
E-3, Police Station, (L & O),
Teynampet,
Chennai – 600 018.

...Respondent

PRAYER: Criminal Revision case filed under Section 397 r/w Section 401 of Code of Criminal Procedure to set aside the order passed in Crl.M.P.No.13420 of 2023 (Old Crl.M.P.No.1434 of 2020) on the file of 23rd M.M.Court(Saidapet) Chennai C.C.No.8836 of 2018 in Criminal Misc.Petition No.13420 of 2023, previous Misc. Petition No.1434 of 2023.

For Petitioner : Mr.D.R.Kumar (P-in-P)

For Respondent : Mr.A.Gopinath
Government Advocate(Crl.Side)



Crl.R.C.No.1693 of 2023

ORDER

This Criminal Revision petition has been filed seeking to quash the order passed in Crl.M.P.No.13420 of 2023 on the file of 23rd Metropolitan Magistrate Court (Saidapet) Chennai in C.C.No.8836 of 2018.

2. It is the case of the prosecution that the petitioner / defacto complainant in Crime No.1925 of 2014, who lodged a complaint under Section 506(i) of IPC against one Vasudevan and Tamilselvi. Since no proper action has been taken, the petitioner had filed a petition before this Court in Crl.O.P.No.22711 of 2014 seeking a direction to register the complaint given by the petitioner dated 11.04.2014, pursuant to the direction issued by this Court vide order dated 22.08.2014, a case was registered against the accused persons and a charge sheet in C.C.No.8836 of 2018 has been filed. Since the charge sheet has been filed only against A1 / Vasudevan omitting the name of said Tamilselvi, the petitioner approached the trial Court and filed a petition u/s.319 of Cr.P.C. which was not properly considered and the same was dismissed for want of evidence. Against which, the present petition has been filed.

3. The petitioner / party-in-person submits that admittedly FIR was



registered only against the said Vasudevan and the law enforcing agency had unilaterally acted by dropping the name of the second accused / Tamilselvi in the First Information Report. Moreso, the said Tamilselvi intimidated other accused to assault the petitioner, which prompted the petitioner to give a complaint against the accused persons. However, without taking cognizance as against the said Tamilselvi, the trial Court had erroneously dismissed the petition filed by the petitioner u/s.319 of Cr.P.C. on the ground that there is no proper evidence to include the said Tamilselvi in the FIR. Hence, he prayed for passing appropriate orders.

4. Learned Government Advocate (Crl.Side) appearing on behalf of the respondent submits that since there is no proper evidence to include the name of said Tamilselvi in the FIR, the trial Court has dismissed the petition filed u/s.319 of Cr.P.C, which is perfectly in order and the same cannot be interfered with.

5. Heard the petitioner / party-in-person and the learned counsel appearing for the respondent and perused the materials placed on record.

6. Admittedly, as per the direction issued by this Court the charge



Crl.R.C.No.1693 of 2023

sheet has been filed as against the said Vasudevan. Since the charge sheet was filed only against the said Vasudevan by omitting the name of said Tamilselvi who was also alleged to have been in the scene of occurrence and was also alleged to have been intimidating the other accused to assault the petitioner, the petitioner filed a petition u/s.319 of Cr.P.C. before the learned XVIII Metropolitan Magistrate Court, Saidapet in Crl.M.P.No.13420 of 2023 in C.C.No.8836 of 2018 to include the name of said Tamilselvi in the FIR. As the said petition was dismissed vide order dated 16.08.2023 for want of evidence to prove the case of the petitioner, the petitioner is in this revision petition.

7. On a perusal of the order passed by the trial Court reveals that there was a land dispute between the petitioner and the accused persons and it was also alleged that the accused / Vasudevan had created a forged Power of Attorney, thereby executed a settlement deed in respect of the property of the petitioner in favour of the wife of said Vasudevan namely Tamilselvi. It is a specific complaint of the petitioner that the petitioner was attacked by said Vasudevan and two others and it was also alleged that the said



Crl.R.C.No.1693 of 2023

Tamilselvi intimidated the other accused to assault the petitioner. Though such a claim has been made by the petitioner, however, on a perusal of the records reveals that there is no documentary evidence to prove the same and hence the trial Court has rightly dismissed the petition filed u/s.319 of Cr.P.C. which is perfectly in order and the same cannot be interfered with. If at all the petitioner has any documentary evidence to prove his case, liberty is granted to him to work out his remedy as against the said Tamilselvi by way of filing a petition u/s.319 of Cr.P.C before the trial Court. Hence, the prayer sought for by the petitioner cannot be acceded to.

8. This Criminal Revision petition is dismissed accordingly.
Consequently, connected miscellaneous petition is closed.

15.07.2024

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

To

5/7



Crl.R.C.No.1693 of 2023

1. The 23rd Metropolitan Magistrate Court (Saidapet) Chennai

2. The Inspector of Police,
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Crl.R.C.No.1693 of 2023

M.DHANDAPANI, J.

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