



Crl.R.C.No.2007 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.2007 of 2024

M.Selvaraj ...Petitioner/Petitioner/*De-facto* complainant

Vs.

The State Rep. by
SHO, The Sub-Inspector of Police,
Periyapalayam Police Station,
Uthukkottai Taluk,
Thiruvallur District. ... Respondent/Respondent/Complainant

PRAYER: Criminal Revision Petition filed under Section 397 r/w 401 of the Cr.P.C./438 r/w 442 of the BNSS to set aside the order dated 08.04.2024 passed by the learned District Munsif cum Judicial Magistrate, Uthukkottai, Thiruvallur District in Crl.M.P.No.7 of 2024 in C.C.No.20 of 2022.

For Petitioner : Mr.T.Sivagnanasambandan

For Respondent : Mr.V.J.Priyadarsana
Government Advocate (Crl.Side)



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ORDER

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The revision challenges the order passed by the learned District Munsif cum Judicial Magistrate, Uthukottai, Thiruvallur District, dismissing the petitioner/*de-facto* complainant's application in Crl.M.P.No.7 of 2024 under Section 319 of Cr.P.C.

2. The petitioner had lodged a complaint against three accused in Crime No.245 of 2021, on the file of the respondent. The respondent on investigation filed the Final Report only as against one person. After the petitioner was examined as a witness, he filed a petition under Section 319 of Cr.P.C., to summon the remaining two accused. The learned District Munsif cum Judicial Magistrate, Uthukottai, Thiruvallur District, dismissed the said petition on the ground that the petition under Section 319 of Cr.P.C. can be considered after the deposition of independent witnesses and additional accused cannot be summoned only on the basis of the evidence of the petitioner.



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3. Mr. T. Sivagnanasambandan, the learned counsel for the petitioner, submitted that the trial Court erred in dismissing the petition since it is the consistent case of the petitioner that three persons were involved in the occurrence; and that he had deposed cogently that the proposed accused are also involved in the occurrence; and hence, the order of the learned Magistrate, dismissing the petition under Section 319 of Cr.P.C., has to be set aside.

4. Heard Mr.V.J.Priyadarsana, the learned Government Advocate (Crl.Side) for the respondent.

5. On perusal of the order dated 08.04.2024, it would show that the learned Magistrate had only held that the petition under Section 319 of Cr.P.C., can be considered after the examination of other independent witnesses and subject to their deposition.



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6.This Court finds no infirmity in the above order. It is for the learned Magistrate to decide on the sufficiency of the evidence to summon a person as an accused. The learned Magistrate observed that the petition could be considered after the deposition of independent witnesses. The discretion exercised by the learned Magistrate cannot be faulted. Therefore, this Court is not inclined to interfere with the order of the trial Court. Hence, this petition is liable to be dismissed.

7. Accordingly, the Criminal Revision Case stands dismissed.

20.11.2024

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To

1. The District Munsif cum Judicial Magistrate,
Uthukottai,
Thiruvallur District.
2. The SHO,
The Sub-Inspector of Police,
Periyapalayam Police Station,
Uthukkottai Taluk,
Thiruvallur District.
3. The Public Prosecutor,
Madras High Court.



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SUNDER MOHAN., J.

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