



Crl.RC.No.92 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.07.2024

CORAM:

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

Crl.RC.No.92 of 2023

and

Crl.M.P.No.596 of 2023

1.Mala

2. Mahesh

...Petitioners

Vs.

1. Devandiren

2.The Inspector of Police,
Jayankondam Police Station,
Ariyalur District.

(R2 Suo Motu impleaded as per order
dated 20.01.2023 in Crl.R.C.No.92 of 2023)

...Respondents

Petition has been filed under Section 397 r/w 401 of Code of Criminal Procedure against the order dated 27.10.2022 passed in Crl.M.P.No.2892 of 2019 in S.C.No.96 of 2019 by the Additional District and Sessions Judge, Ariyalur.

For Petitioner : Mr.R.Venkatesulu

For Respondents : Mr.P.Tamilvel for R1
Mr.R.Vinothraja for R2



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ORDER

WEB COPY This Criminal Revision petition has been filed by the petitioners against the order dated 27.10.2022 passed in CrI.M.P.No.2892 of 2019 in S.C.No.96 of 2019 by the learned Additional District and Sessions Judge, Ariyalur.

2. According to the petitioners, they were implicated as accused Nos.2 and 3 for the offence u/s.307, 294(b) and 506(ii) of IPC as if they have assaulted the *de facto* complainant's father and the *de facto* complainant sought orders in CrI.M.P.No.2892 of 2019 in S.C.No.96 of 2019 to implead the petitioners as accused Nos.2 and 3 along with the first accused in the case filed by him before the trial Court and the trial Court vide order dated 27.10.2022 has taken cognizance only against the petitioners by impleading them as parties in the sessions case. Challenging the same, the present revision has been filed by the petitioners seeking the aforesaid relief.

3. The learned counsel appearing for the petitioner submits that admittedly during the investigation, the investigating officer found that the



petitioners were not present in the alleged scene of occurrence and no charges were framed against the petitioners. Moreso, except the statement recorded under Section 161 of Cr.P.C., no other documents were collected by the investigating officer as against the petitioners. In the absence of any material evidence collected by the investigating officer against the petitioners, the trial Court cannot implead the petitioners u/s.319 of Cr.P.C. as parties in the case filed by the de facto complainant. Hence, he prayed to allow this petition.

4. The learned counsel for the first respondent submit that there was a dispute between the petitioners, Accused No.1 namely Gunasekaran and the first respondent / de facto complainant with regard to the maintenance of road, due to which, the first respondent made a complaint against the accused persons before the Jayankondam Police Station, pursuant to which the FIR has been registered against the above said persons in Cr.No.297 of 2011 u/s.307, 294(b), 56(ii) of IPC. Based on the statement recorded u/s.161 of Cr.P.C., the investigating officer after investigation, deleted the petition mentioned accused persons from the case, due to which, the de facto



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complainant / first respondent filed a petition u/s.319 of Cr.P.C. seeking to implead the accused Nos.A2 and A3 / petitioners before the trial Court and the same was allowed vide order dated 27.10.2022 based on the statement recorded by the investigating officer u/s.161(3) of Cr.P.C. which is perfectly in order and the same cannot be interfered with. Hence, he prayed to dismiss the present revision.

5. Heard the learned counsel for the petitioner and the respondents and perused the materials placed on record.

6. Assailing the order dated 27.10.2022 passed by the learned Additional District and Sessions Judge, Ariyalur, in allowing the petition u/s.319 of Cr.P.C. filed by the *de facto* complainant seeking to implead the petitioners as accused in the case, the present revision has been filed.

7. It is the claim of the petitioners that based on the statement recorded by the investigating officer u/s.161 of Cr.P.C. the trial Court has impleaded the petitioners as parties in the case filed by the *de facto*



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complainant, however, except the said statement recorded u/s.161 of Cr.P.C.

by the investigating officer, no other documents were available to show the petitioners are found guilty. In the absence of any such evidence / material, except with the statement recorded by the investigating officer u/s.161 of Cr.P.C, the order passed by the trial Court impleading the petitioners as accused Nos.2 and 3 in the case filed by the *de facto* complainant is wholly unsustainable. Accordingly, the impugned order dated 27.10.2022 in Cr.M.P.No.2892 of 2019 in S.C.No.96 of 2019 passed by the learned Additional District and Sessions Judge, Ariyalur is set aside.

8. Accordingly, the criminal revision petition is allowed in above terms. Consequently, connected miscellaneous petition is closed.

01.07.2024

rap

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

To

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1. The Inspector of Police,
Jayankondam Police Station,
Ariyalur District.
2. The Additional District and Sessions Judge, Ariyalur.
3. The Public Prosecutor
High Court, Madras.

M.DHANDAPANI, J.



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