



CRL.OP.(MD). No. 4341 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.11.2024

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

CRL.OP.(MD). No. 4341 of 2023

B.Sriraman

... Petitioner/Appellant/Accused

Vs.

D.Selvakumar

... Respondent/Respondent/Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order of the learned Principal Sessions Judge, Thanjavur in Crl.A. No. 31 of 2016 dated 31.07.2018.

For Petitioner : Mr. A.Sivasubramanian

For Respondent : Mr.R.L.Dhilipan Pandian

ORDER

This petition has been filed challenging the proceedings of the learned Principal Sessions Judge, Thanjavur in Crl.A. No. 31 of 2016 dated 31.07.2018 confirming the order passed by the learned Judicial



CRL.OP.(MD). No. 4341 of 2023

Magistrate, Thiruvaiyaru in Crl.MP.No. 2873 of 2015 in C.C. No. 87 of 2013 dated 11.04.2016, refusing to initiate proceedings against the respondent/complaint under Section 340 of CrPC.

2. Heard the learned counsel on either side and perused the materials placed on record.

3. The specific case of the petitioner is that the respondent/complainant gave a false complaint and he made false statement before the Court by contradicting himself with the statement that was made in the chief examination, while he was examined in cross immediately. Therefore, the petitioner submitted an application to prosecute the respondent for giving false evidence under Section 193 of IPC. Accordingly, the complaint was filed under Section 340 of CrPC. The learned Judicial Magistrate came to a conclusion that the main calendar case itself was not disposed of and therefore, there is no occasion to deal with the complaint given by the petitioner to initiate prosecution under Section 340 of CrPC.



CRL.OP.(MD). No. 4341 of 2023

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4. The above order passed by the learned Magistrate was confirmed in appeal by the Principal Sessions Judge, Thanjavur in Crl.A. No. 31 of 2016 by order dated 31.07.2018.

5. In the considered view of this Court, the tenability of the evidence of the respondent/complainant can be tested only after the completion of the proceedings. Just because there was a contradiction in the evidence of the respondent/complainant when he was cross examined, that by itself will not give rise to filing a complaint to proceed under Section 340 of CrPC. The main case was pending before the Court and therefore, the Court can come to a conclusion regarding the evidence of the respondent/complaint only at the time of the completion of the proceedings.

6. In view of the above, the conclusion arrived at by both the Courts below does not suffer from any illegality warranting the interference of this Court.



CRL.OP.(MD). No. 4341 of 2023

7. The learned counsel for the petitioner submitted that the main case itself came to be disposed of by the learned Judicial Magistrate, Thiruvaiyaru by judgment dated 06.02.2023. While delivering this judgment, the learned Magistrate has given a specific finding that the respondent/complainant has tendered a false evidence. Therefore, the learned counsel submitted that the complaint given by the petitioner now stood confirmed by the judgment of the learned Magistrate.

8. *Per contra*, the learned counsel for the respondent/complainant submitted that as against the judgment of the Trial Court, the respondent/complainant has filed an appeal and the same is now pending in CrI.A.No.124 of 2023 before the learned I Additional District Court, (PCR), Thanjavur.

9. In the light of the above developments, if ultimately at the end of the proceedings, the evidence of respondent/complaint is found to be false, only then the petitioner will get a cause of action to prosecute under Section 340 of CrPC where the Court itself will become the complainant. As and when such an occasion arises, it is left open to the



CRL.OP.(MD). No. 4341 of 2023

petitioner to proceed further in accordance with law. Except giving this clarity, no further orders can be passed in this petition.

10. In the result, this criminal original petition is disposed of in the above terms.

18.11.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To

The Principal Sessions Judge, Thanjavur.



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CRL.OP.(MD). No. 4341 of 2023

N.ANAND VENKATESH,J.

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Order made in
CRL.OP.(MD). No. 4341 of 2023

18.11.2024