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Crl.R.C(MD)No.1308 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 28.11.2023

Pronounced on : 07.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C(MD)No.1308 of 2023

and

Crl.M.P(MD)Nos.16635 and 16636 of 2023

1.Muniyaraj

2.Thangaraj

... Petitioners

Vs.

The Inspector of Police,
Villoor Police Station,
Madurai District.
(Crime No.72 of 2021)

... Respondent

PRAYER : This Criminal Revision has been filed under Sections 397 and 401 of Criminal Procedure Code, to call for the records and allow this Criminal Revision Petition by setting aside the order passed in Cr.M.P.No.1922 of 2022 by the District Munsif-cum-Judicial Magistrate, Peraiyur, dated 27.09.2022 and directing the Munsif-cum-Judicial Magistrate, Peraiyur to remove the name of the first and second petitioner in the charge sheet.

For Petitioners : Mr.S.Sivaprakash

For R1 : Mr.K.Sanjay Gandhi
Government Advocate (Crl.side)

For R2 : Mr.M.Murugesan



ORDER

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This Criminal Revision Case is filed to set aside the order dated 27.09.2022 passed in Crl.M.P.No.1922 of 2022 in Crime No.72 of 2021 on the file of the learned District Munsif-cum-Judicial Magistrate, Peraiyur.

2.The brief facts of the case:

The defacto complainant, who is the second respondent herein, lodged a complaint before the first respondent police station that on 13.06.2021 at about 6.00 p.m. when she along with her son returned home after finishing work at their garden, due to land dispute the petitioners and other accused uttered filthy language and attacked the defacto complainant and her son and took away cell phone. On the basis of complainant, the first respondent police originally registered the FIR in Crime No.72 of 2021 for the offence under Sections 341, 294(b), 323, 324, 506(i) of IPC r /w 4 of TNPHW Act against three accused namely Accused No.1/Muniyaraj, Accused No.2/Thangaraj and Accused No.3/Kaliraj. After completing investigation, the Investigating Officer filed charge sheet against only one accused namely Accused No.3/Kaliraj. The defacto complainant filed objection leveling



allegations that the Investigating Officer prepared statements as if he examined the defacto complainant and Jayamurugan & Karuppsamy, who were present at the time of occurrence. In fact the complaint was given against 10 persons, but the respondent police obtained signature in an unfilled white paper and registered FIR only against three persons and thereafter filed a final report against one accused. so, she prayed to take cognizance of the case against other two accused also. The learned District Munsif-cum-Judicial Magistrate, Peraiyur after considering the materials has ordered to take the case on file against the other two accused (petitioners herein) also and ordered to issue summons to them. Being aggrieved by the order, the petitioners/Accused Nos.1 & 2 preferred this Criminal Revision Case.

3. Heard both side and perused the records in this Criminal Revision Case.

4. The learned counsel appearing for the revision petitioners has submitted that except the statement under Section 161(3) of Cr.P.C. given by L.W.1 and L.W.2, who are the defacto complainant and his son and who are interested witnesses, other witnesses have not given statements under Section 161(3) of Cr.P.C. against these petitioners. Further, as per



doctor's statement, the defacto complainant and his son escaped from the hospital without taking treatment. The learned Judicial Magistrate failed to consider the statements of L.W.3 to L.W.8 who clearly stated that at the time of occurrence the petitioners 1 and 2 were not at the occurrence place. Therefore, the impugned order of the trial Court may be set aside.

5. The learned Government Advocate (Crl.side) appearing for the first respondent has not raised any serious objection.

6. The learned counsel for the second respondent/defacto complainant submitted that the F.I.R was registered against three accused, but the Investigating Officer has wantonly deleted the prime accused Muniaraj/Accused No.1 and Thangaraj/Accused No.2, in order to do favour them as they are government employees. One another eye witness namely Kaleeswari clearly given statement under Section 161(3) of Cr.P.C. about the overtacts attributed against the petitioners/accused who attacked the second respondent and his son. So, the argument that except the statements of L.W.1 and L.W.2, the other witnesses L.W.3 to L.W.8 have not stated anything against the petitioners is false one. Further, the doctor has clearly given statement that the defacto complainant stated before her that the defacto complainant was attacked



by some persons. Hence, the impugned order is legally correct and this Criminal Revision Case may be dismissed.

7. On hearing both and on perusal of records, it is clear that on the basis of complaint lodged by the second respondent/defacto complainant FIR in Crime No.72 of 2021 was registered by the respondent police on 14.06.2021 against three accused namely Accused No.1/Muniyaraj, S/o.Muthumani, Accused No.2/Thangaraj, S/o Muthumani and Accused No.3/Kaliraj, S/o.Muthumani. The Investigating Officer did investigation and laid charge sheet against one accused namely Accused No.3/Kaliraj on 18.08.2021. Hence, the defacto complainant filed objection against the charge sheet and prayed to take cognizance of the case against other accused also.

8. The statements recorded under Section 161(3) of Cr.P.C. of witnesses were perused. L.W.1 – Vijaya and L.W.2 - Rajeswaran have clearly stated that the petitioners namely Kaliraj and Thangaraj also involved in the occurrence. The statement of doctor also reveals that the defacto complainant stated before her that she was attacked by some persons. So, as rightly held by the trial Court that there are *prima facie* materials available against the petitioners who involved in the



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occurrence and ordered to taken on file the charge sheet against the petitioners also. There is no illegality in the impugned order and the same need not be interfered by way of this revision. Considering the above facts and circumstances, this Criminal Revision Case fails.

9. In the result, this Criminal Revision Case is dismissed. The impugned order passed by the learned District Munsif-cum-Judicial Magistrate, Peraiyur in Crl.M.P.No.1922 of 2022 dated 27.09.2022 is confirmed. Consequently, the connected Miscellaneous Petitions are closed.

07.02.2024

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

To

- 1.The District Munsif-cum-Judicial Magistrate,
Peraiyur.
- 2.The Inspector of Police,
Villoor Police Station,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.VADAMALAI, J.

VSD

Pre - Delivery Order made in
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