



Crl.R.C.(MD)No.143 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 09.02.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.R.C.(MD)No.143 of 2024

Amalson Peeris

.. Petitioner

Vs.

1.The State, rep. by

The Inspector of Police,

Authoor Police Station,

Thoothukudi District.

2.Vimalson

3.Raja

4.Senthil Kumar

... Respondents

PRAYER : Criminal Revision Case is filed under Sections 397 r/w 401 of the Criminal Procedure Code, to call for the records relating to the



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order dated 31.07.2023 made in Crl.M.P.No.2477 of 2023 on the file of the learned Judicial Magistrate Court, Tiruchendur and set aside the same as illegal and allow the Criminal Revision Case.

For Petitioner : Mr.M.U.Mohamed Aslam

For Respondents : Mr.B.Nambiselvan – for R1

Additional Public Prosecutor

ORDER

Challenging the dismissal order passed by the learned Judicial Magistrate Court, Tiruchendur made in Crl.M.P.No.2477 of 2023, dated 31.07.2023, the present Criminal Revision has been filed by the petitioner.

2. The case of the petitioner is that there was a pathway dispute between the petitioner and the private respondents in respect of Survey No.84/52B. One Vimalson decided to survey the property in Survey No.84/58 as per the revenue records and the revenue authorities declared that there is no encroachment in that survey



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number. Thereby, the said Vimalson filed a civil suit in O.S.No.31 of 2021 before the District Munsif Court, Tiruchendur and the same is pending between the parties. While-so, the petitioner, on 05.03.2023, went to Thoothukudi along with his family members and return back to his native place, at that time, Vimalson engaged few persons for drilling the wall and the same was recorded through videograph. When the same was questioned, the said Vimalson abused the petitioner and other ladies and thereby the petitioner made a complaint in CSR No.71 of 2023. However, the law enforcing agency has not taken any effective steps. Hence, the petitioner has preferred the impugned complaint before the trial Court under Section 156(3) of Cr.P.C., in Crl.M.P.No.2477 of 2023 and the same was rejected. Challenging the same, the petitioner has filed the present Criminal Revision Petition.

3. The learned counsel for the petitioner submitted that admittedly, without any authority, the Vimalson had damaged the wall and that was video-graphed, at that time, the Vimalson, who is the brother of the petitioner, abused the petitioner's family in filthy



language. Thereby, he made a complaint, however, the said complaint was not entertained by the trial Court, as not sustainable. Hence, he prays for allowing the present petition. He further submitted that when the petitioner filed a condone delay petition before the trial Court, notice was ordered and when they about to serve the notice, they threatened the petitioner and thereby two FIR was lodged against him.

4. The learned Additional Public Prosecutor appearing for the first respondent submits that admittedly, the petitioner and the Vimalson are brothers. There was a civil dispute pending between the petitioner and the Vimalson before the District Munsif Court, Tiruchendur in O.S.No.31 of 2021. Without adjudicating the issue before the trial Court, filing a complaint before the law enforcing agency and subsequently, the petitioner filing a complaint before the trial Court under Section 156(3), is not maintainable and if the trial Court rendered any opinion on merits of the case, it will affect the interest and right of the petitioner and hence, prayed for rejection of the complaint.



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5. Heard, Mr.M.U.Mohamed Aslam, learned counsel for the revision petitioner and Mr.B.Nambiselvan, learned Additional Public Prosecutor appearing for the first respondent and perused the materials available on record.

6. The petitioner alleged that without any authority, the Vimalson had damaged the wall and that was video-graphed, at that time, the Vimalson, who is the brother of the petitioner, abused the petitioner's family in filthy language. Thereby, he made a complaint, however, the said complaint was not entertained by the trial Court, as not sustainable. Hence, he prays for allowing the present petition.

7. The facts in the present case are not in dispute. Admittedly, the petitioner and the Vimalson are brothers. There was a civil dispute pending between the petitioner and the Vimalson before the District Munsif Court, Tiruchendur in O.S.No.31 of 2021. Without adjudicating the issue before the trial Court, filing a complaint before



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the law enforcing agency and subsequently, the petitioner filing a complaint before the trial Court under Section 156(3), is not maintainable and as such, the Criminal Revision is devoid of merits and the same is liable to be dismissed.

8. Accordingly, this Criminal Revision Petition is dismissed. However, liberty is granted to the petitioner to canvas all those issues before the trial Court where the civil suit is pending.

09.02.2024

Index : Yes / No

Internet : Yes / No

NCC : Yes / No

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1.The Judicial Magistrate Court,
Tiruchendur

To

1. The Inspector of Police,
Authoor Police Station,
Thoothukudi District.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI, J.

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