



Crl.R.C.No.958 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2025

CORAM

THE HON'BLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.958 of 2023

and

Crl.M.P.No.7791 of 2023

Badrunnisa Begam

... Petitioner

Vs

1. The State represented by,
The Inspector of Police,
Virinjipuram Police Station,
Vellore District.

2. Zunaith

Zubaitha Beevi died

3. Beer Mohammad

... Respondents

PRAYER:

Criminal Revision Case filed under Section 397 and 401 of Cr.P.C., to set aside the order dated 06.04.2023 passed in Crl.M.P.No.13616 of 2022 in C.C.No.653 of 2014 on the file of the learned Judicial Magistrate No.V, Vellore, dismissing the application filed under Section 242(2) Cr.P.C.



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For Petitioner : Mr.A.Saravanan
For R1 : Mr.S.Sugendran
Additional Public Prosecutor
For R2 & R3 : Mr.P.Rajkumar

ORDER

This Criminal Revision Petition has been filed seeking to set aside the order dated 06.04.2023 passed in Crl.M.P.No.13616 of 2022 in C.C.No.653 of 2014 on the file of the Judicial Magistrate No.V, Vellore, dismissing the application filed under Section 242(2) Cr.P.C.

2. Heard the learned counsel appearing for the petitioner, learned counsel for the respondents 2 and 3 and the learned Additional Public Prosecutor appearing for the first respondent-Police and perused the materials available on record.

3. Based on the complaint made by the petitioner/*de-facto* complainant, the first respondent-police registered a case in Crime No.30 of 2007 against the respondents 2 and 3 herein. After completion of the



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investigation, charge sheet has been filed and the same was taken on file in C.C.No.250 of 2007 on the file of the Judicial Magistrate No.IV, Vellore, for the offences under Sections 406, 420, 468, 471 read with 120(B)(1) IPC. While so, the petitioner herein filed a case in Crl.O.P.No.14077 of 2014 before this Court, seeking direction to the Judicial Magistrate No.IV, Vellore to eschew the evidence already recorded in C.C.No.250 of 2007 and to allow the prosecution to adduce fresh evidence.

4. In view of the direction of this Court in Crl.O.P.No.14077 of 2014 and Crl.R.C.No.531 of 2014, the said case was transferred to Judicial Magistrate No.V, Vellore and re-numbered as C.C.No.653 of 2014. Pending trial, the first respondent-Police filed a petition Crl.M.P.No.13616 of 2022 in C.C.No.653 of 2014, under Section 242(2) Cr.P.C to receive the additional documents and the same was dismissed by the trial Court, vide impugned order dated 06.04.2023. Aggrieved by the same, the petitioner herein/*de-facto* complainant has filed this criminal revision petition.



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5. The learned counsel for the petitioner/*de-facto* complainant submitted that the documents which are mentioned in the petition in Crl.M.P.No.13616 of 2022, are necessary to decide the case. On an earlier occasion, this Court directed to recall the witnesses and for marking of documents which are already available on record. Subsequently, the case was transferred from Judicial Magistrate Court No.IV, Vellore to Judicial Magistrate Court No.V, Vellore. The first respondent-police filed a petition by invoking Section 242(2) of Cr.P.C., before the learned Judicial Magistrate No.V, Vellore to receive the additional documents. The learned Judge, without considering the materials on record, dismissed the petition filed by the respondent-Police. Aggrieved by the impugned order of the learned Magistrate, the petitioner/*de-facto* complainant filed this criminal revision petition.

6. The learned counsel for the respondents 2 and 3/accused submitted that ,already the petitioner filed the petition in Crl.M.P.No.322 of 2025 invoking Sections 311 and 242 Cr.P.C., for reception of additional documents and the same was dismissed. Now, the first



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respondent-Police once again filed the petition for marking the documents which were produced earlier. The witnesses who have already been examined, have not spoken anything about the alleged documents. The prosecution misconstrued the provision under Section 242 Cr.P.C., by taking advantage of the earlier order passed by this Court. The prosecution has not chosen to mark the documents which are already available on record. The Court below, after going through the entire materials, rightly dismissed the petition filed by the first respondent-Police. Hence he prayed for dismissal of this revision petition.

7. Admittedly, the petitioner is the de-facto-complainant on whose complaint, the first respondent-Police registered a case in Crime No.30 of 2007 against the second and third respondents herein, for the offences under Sections 406, 420, 468, 471 read with 120(B)(i) of IPC. Earlier the trial was commenced by learned Judicial Magistrate No.IV, Vellore. While so, petitioner filed a case in Crl.O.P.No.14077 of 2024 before this Court. While disposing of the said Crl.O.P, this Court has given



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direction to transfer the case from Judicial Magistrate Court No.IV, Vellore to Judicial Magistrate Court No.V, Vellore. Pending trial, the case was transferred to Judicial Magistrate Court No.V, Vellore. At this juncture, the prosecution filed a petition under Section 242(2) Cr.P.C for reception of additional documents. Though the learned Judge permitted the petitioner to recall the witnesses, however refused to receive the additional documents. The learned Judge has clearly stated that the petition filed by the prosecution under Section 242(2) Cr.P.C., is not maintainable at this stage. Even prosecution has not summoned any of the witnesses for producing the documents either at the time of investigation or at the time of framing of charge or even at later point of time. During trial, the witnesses who have already been examined, have not spoken about the documents now sought to be produced. The petitioner approached this Court on several occasions, for one reason or the other and ultimately, liberty was given to the petitioner to assist the prosecution.



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8. The learned Magistrate has clearly observed that this Court while disposing of the Crl.R.C.No.531 of 2014 and in Crl.O.P.No.14077 of 2014, by common order dated 16.09.2014, directed transfer of the case to the Judicial Magistrate Court No.V, Vellore and directed the *de-facto* complainant, who is the petitioner herein, to file appropriate petition seeking to assist the prosecution to recall P.Ws.2 to 5 for the purpose of further examination and for marking of documents which are already available on record. That was brought to the knowledge of the Court below and even the documents already available on record were not marked. The documents sought for by the prosecution under Section 242(2) Cr.P.C are very much available in the Court. Further, the prosecution has not filed any application to issue summons to any of the witnesses for production of the listed documents. Under the above facts and circumstances of the case, this is not a fit case to invoke Section 242(2) Cr.P.C for production of documents



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9. This Court does not find any perversity in the impugned order passed by the learned Judge. Hence, this Criminal Revision Petition is dismissed. Consequently, connected miscellaneous petition is closed. However, the prosecution is at liberty to work out their remedy in the manner known to law by invoking appropriate provision of law.

03.02.2025

mfa

Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No

To

1. The Judicial Magistrate No.V, Vellore.

2. The Inspector of Police,
Virinjipuram Police Station,
Vellore District.

3. The Public Prosecutor,
High Court, Chennai.



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P.VELMURUGAN, J

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