



Crl.RC.No.1815 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2025

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.RC.No.1815 of 2024 and
Crl.M.P.No.14931 of 2024 and
Crl.M.P.No.1740 of 2025

James

... Petitioner

Vs.

1. State Represented by
The Inspector of Police
J-4 Kotturpuram Police Station, Chennai

2. P.Iyappan

... Respondents

Prayer: Criminal Revision Case filed under under Section 397 Cr.P.C. read with Section 401 Cr.P.C. / 438 read with 442 of B.N.S.S. to set aside the order dated 12.08.2024 in Crl.M.P.No.55822 of 2023 in C.C.No.11626 of 2022 on the file of the Metropolitan Magistrate for Exclusive Trial of CCB Cases (relating to cheating cases in Chennai) and CBCID Metro Cases, Egmore, Chennai.



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For Petitioner : Mr.C.Suraj
for Mr.A.Ashwin Kumar
For 1st Respondent : Mr.S.Sugendran
Additional Public Prosecutor
For 2nd Respondent : Mr.K.Murugesan

ORDER

This Criminal Revision Case has been filed by the petitioner to set aside the order dated 12.08.2024 in Crl.M.P.No.55822 of 2023 in C.C.No.11626 of 2022 on the file of the Metropolitan Magistrate for Exclusive Trial of CCB Cases (relating to cheating cases in Chennai) and CBCID Metro Cases, Egmore, Chennai.

2. The case of the prosecution is that the petitioner is an accused in Crime No.8 of 2015 in C.C. No.6756 of 2018 on the file of the Metropolitan Magistrate CCB and CBCID Court at Egmore, Chennai. The 2nd respondent herein is one of the witnesses in the aforesaid case and he has also given a statement under Section 164 Cr.P.C. Pending trial, on 31.08.2016 at around 4.30 p.m., while the 2nd respondent herein was resting in the T.V. Room in the



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Saidapet Court premises, the petitioner is alleged to have abused him with filthy language and assaulted him and also threatened him stating that he should not give any further evidence with regard to an alleged attempt to trespass into the house of the former Chief Justice of Madras High Court, failing which, he will suffer dire consequences. Hence, the 2nd respondent herein lodged a complaint before the 1st respondent police and based on which, the case in Crime No.1423 of 2016 was registered against the petitioner for the offence under Sections 341, 24(b), 323, 506(1) of IPC and upon completion of investigation, the 1st respondent police filed the final report and the same was taken on file in C.C.No.7235 of 2017 and subsequently, based on the petition filed by the 2nd respondent herein, the case was transferred to CCB & CBCID Metropolitan Magistrate, Egmore, Chennai and re-numbered as C.C.No.11626 of 2022. While so, the 2nd respondent herein filed a petition in Crl.M.P.No.55822 of 2023 before the CCB & CBCID Metropolitan Magistrate, Egmore, Chennai, under Section 216 Cr.P.C. to frame additional charge for the



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offence under Section 195A of IPC in the Crime No.1423 of 2016 in C.R.No.11626 of 2022 stating that the petitioner had also threatened him to give false evidence. The learned Magistrate after considering the same, allowed the petition by order dated 12.08.2024. Aggrieved by the same, the petitioner/accused has filed the present revision.

3. The learned counsel for the petitioner submitted that the ingredients for the offence under Section 195A IPC has not been made out. Even in the original complaint, the 2nd respondent has only stated that the petitioner threatened him not to give evidence failing which, his life would be taken away and that there is no allegations for the offence under Section 195A IPC. Even in the earlier statement recorded under Section 161 Cr.P.C., from the 2nd respondent there is no such material to attract the ingredients of Section 195A IPC. The list of witnesses shown as eyewitnesses have also not stated anything about the ingredients of Section 195A IPC. The learned Magistrate failed to consider the ingredients of Sections 191 and 195A IPC and allowed the



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petition. Therefore, the order passed by the Magistrate is perverse and the same is liable to be set aside.

4. The learned Additional Public Prosecutor appearing for the 1st respondent police submitted that though the case was originally registered for the offence under Sections 294(b), 323, 341 and 506(1) IPC, subsequently, pending trial in C.C.No.11626 of 2022, the 2nd respondent herein filed a petition before the trial Court under Section 216 Cr.P.C. to frame additional charge for the offence under Section 195A of IPC and the learned Magistrate, considering the facts and circumstances, allowed the same.

5. The learned counsel for the 2nd respondent submitted that the petitioner threatened the 2nd respondent with dire consequences stating not to give evidence against the accused in the earlier case with intent to cause him to give false evidence which attracts Section 195A IPC. Since the trial Court omitted to frame charge under Section 195A IPC, the petitioner filed a petition under Section 216 Cr.P.C. and subsequently, the learned Magistrate on finding



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that Section 195A IPC would also attract against the accused, allowed the petition and there is no merit in this revision.

6. Heard both sides and perused the materials available on record.

7. It is seen that both the petitioner and the 2nd respondent are practicing Advocates. The petitioner is an accused in C.C. No.6756 of 2018 on the file of the Metropolitan Magistrate CCB and CBCID Court at Egmore, Chennai in which, the 2nd respondent is one of the witnesses and he had also given statement under Section 161 Cr.P.C. against the accused persons and pending trial, the petitioner herein scolded the 2nd respondent in abuse language and said that he should not enter into the Court premises by wearing Advocate's Coat and also threatened him not to give any evidence and if he gives any evidence, he will take away his life. Therefore, the 2nd respondent lodged a complaint before the 1st respondent police and the same was registered in Crime No.1423 of 2016 and subsequently, the case was taken cognizance by the Metropolitan Magistrate for Exclusive Trial of CCB Cases (relating to



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cheating cases in Chennai) and CBCID Metro Cases, Egmore, Chennai, in

C.C.11626 of 2022. Pending trial, the 2nd respondent filed a petition before the trial Court in Crl.M.P.No.55822 of 2023 invoking Section 216 Cr.P.C. for framing of additional charge for the offence under Section 195A IPC. For better understanding, the provisions for the offence under Sections 191 and 195A are extracted as follows:

Section 191- Giving false evidence.

Whoever, being legally bound by an oath or by an express provision of law to state the truth, or being bound by law to make a declaration upon any subject makes any statement which is false, and which he either known or believes to be false or does not believe to be true, is said to give false evidence.

Explanation:

[1] A statement is within the meaning of this section whether it is made verbally or otherwise.

[2] A false statement as to the belief of the person attesting is within the meaning of this sec-



tion and a person may be guilty of giving false evidence by stating that he believes a thing which he does not believe, as well as by stating that he knows a thing which he does not know.

Section 195A-Threatening any person to give false evidence

Whoever threatens another with any injury to his person, reputation or property or to the person or reputation of anyone in whom that person is interested, with intent to cause that person to give false evidence shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both; and if innocent person is convicted and sentenced in consequence of such false evidence, with death or imprisonment for more than seven years, the person who threatens shall be punished with the same punishment and sentenced in the same manner and to the same extent as such innocent person is punished and sentenced."

8. A reading of the above provisions shows that any threat to give false evidence falls under Section 191 IPC and punishable under Section 195A IPC.



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9. However, a reading of the FIR and the statement recorded from the 2nd

respondent shows that the 2nd respondent has only made complaint before the 1st respondent stating that when he was sitting inside the Saidapet Court premises, the petitioner threatened him not to enter into the Court premises with Advocate's Coat and not to give any evidence and if he gives any evidence, he would take away his life and nowhere either in the complaint or in the statement recorded under Section 161 Cr.P.C., the 2nd respondent has stated that the petitioner threatened him to give false evidence.

10. Therefore, from the reading of the complaint, FIR and charge sheet, this Court finds that no ingredients to attract Section 195A IPC is made out. Therefore, the order passed by the Magistrate in Crl.M.P.No.55822 of 2023 dated 12.08.2024, is set aside.

11. However, till the disposal of the case in C.C.No.11626 of 2022 on the file of the Metropolitan Magistrate for Exclusive Trial of CCB Cases (Relating to Cheating Cases in Chennai) and CBCID Metro Cases, Egmore, Chen-



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nai. the petitioner should not enter into the Court premises where the case is pending, since the allegations is very serious in nature and that the petitioner should appear only through video conferencing. The petitioner's counsel alone can participate in the trial personally.

12. Further, the Magistrate is directed to make suitable arrangements to enable the petitioner to appear through video conferencing and if the petitioner fails to comply with this order, the Magistrate is directed to file a report before this Court and based on which, suitable directions would be given to Bar Council of India for cancelling the enrolment of the petitioner.

13. Further, till the disposal of the case in C.C.No.11626 of 2022 on the file of the Metropolitan Magistrate for Exclusive Trial of CCB Cases (Relating to Cheating Cases in Chennai) and CBCID Metro Cases, Egmore, Chennai, the 1st respondent police is directed to give necessary police protection to the 2nd respondent.



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14. With the above observations and directions, this Criminal Revision Case is disposed of. Consequently, connected Miscellaneous Petitions are closed.

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Index : Yes / No
Speaking Order : Yes / No
Neutral Citation Case : Yes/No
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Note: Issue Order Copy on 17.02.2025.

To

1. The Metropolitan Magistrate for Exclusive Trial of CCB Cases
(Relating to Cheating Cases in Chennai) and CBCID Metro Cases,
Egmore, Chennai
2. The Inspector of Police
J-4 Kotturpuram Police Station
Chennai
3. The Public Prosecutor
High Court of Madras

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P.VELMURUGAN. J.

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