



Crl.R.C.No.1363 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

Dated : 26.03.2025

CORAM :

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Criminal Revision Case No. 1363 of 2019
and
Criminal M.P. No. 18137 and 18138 of 2019

Asokan

.. Petitioner

Versus

V.P.Raman

.. Respondent

Criminal Revision case is filed under Section 397 r/w. 401 of Cr.P.C to set aside the order dated 27.09.2019 in Crl.M.P.No.1031 of 2017 on the file of the learned Judicial Magistrate-4, Salem.

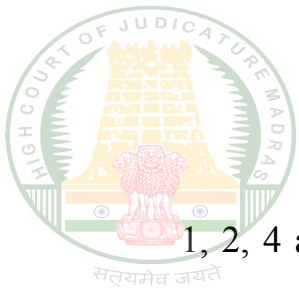
For Revision Petitioner : Mr. T. Sai Krishnan

For Respondent : Mr. R. Jeevarathinam, Senior Counsel
for M/s. Madhuri Donti Reddy

ORDER

This Criminal Revision Case is filed to set aside the order dated 27.09.2019 in Crl.M.P.No.1031 of 2017 on the file of the learned Judicial Magistrate-IV, Salem. By the said order, the learned Judicial Magistrate No.4,

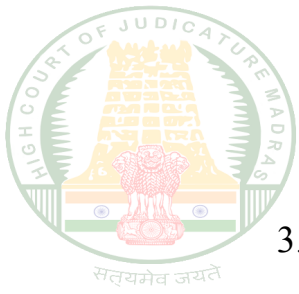
Salem concluded that there are circumstance exist to consider that the Accused



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1, 2, 4 and 5 have to be held responsible for the death of the minor boy and accordingly directed to issue summons to the Accused.

2. The case of the prosecution, as unfolded from the First Information Report registered at the behest of one Geetha is that her son Nanjil Valavan is studying in III Standard in Mount Servarayan School, Poosaripatti. According to the said Geetha, on 22.12.2008 she accompanied her son and left him in the School in the morning. Immediately after a short while, she received information from the School that her son is admitted in the Intensive Care Unit in the hospital. On the basis of such information, the said Geetha rushed to the hospital where her son was given treatment for head injuries in the Intensive Care Unit. Later, it was reported by the Doctors that they are doing their best to save their son. Therefore, a complaint was given by the said Geetha based on which the case in Crime No. 615 of 2008 was registered for the offences punishable under Section 317, 336 and 338 of Indian Penal Code. Ex.P-7 is the First Information Report. Subsequently, on 26.12.2008, the son of the said Geetha died inspite of treatment. Therefore, the Investigation Officer has submitted an alteration report, altering the offences into one under Section 304A, 317 and 506 (ii) IPC. After investigation in the criminal case, a Charge sheet was filed on 02.04.2009 before the Judicial Magistrate, Omalur.



3. During the pendency of the criminal case, Mr. V.P. Raman, grandfather of the deceased child, had filed Criminal Original Petition No. 6900 of 2009 before this Court to transfer the investigation to CB CID. This Court passed an order directing to withdraw the case from the second Respondent therein and the Superintendent of Police, Salem was directed to nominate an officer to investigate this case. Therefore, the entire case records were entrusted to the Superintendent of Police, Salem. It appears that the Superintendent of Police, Salem himself conducted investigation and submitted final report on 31.12.2009 for the offence 336 279, 304A of Indian Penal Code and Section 3 (1) read with 189, 39 read with 192 and 146 of The Motor Vehicle Act. The charge sheet had been filed against Ashokan and Arjunan.

4. Subsequently, the grandfather of the deceased V.P. Raman filed M.P. No. 1 of 2009 in Crl.OP No. 6900 of 2009 in which this Court directed the investigation to be transferred and entrusted to CB CID. Therefore, the Deputy Superintendent of Police, CB CID had taken up the investigation in this case. After investigation, a charge sheet was filed against Ashokan, Arjunan and Roshini for the offence under Section 338, 304A read with 109 of IPC.



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WEB COPY5. During the pendency of criminal trial in C.C. No. 3 of 2014, the grandfather of the deceased had filed the instant private complaint contending that by suppressing the material particulars, the charge sheets had been filed in this case and therefore, he prayed for issuing appropriate direction to conduct a proper enquiry and to punish the Accused therein for the alleged offences committed by them. In the said private complaint, the learned Judicial Magistrate No.IV, Salem 27.09.2019 ordered for issuing summons to the Accused in the case.

6. In the criminal trial, the Accused appeared before the trial court. During trial in the case, on behalf of Prosecution, 28 witnesses were examined as P.W-1 to P.W-28 and 31 documents were marked as Ex.P-1 to Ex.P-32. The trial Court, upon hearing the argument of the Counsel for both sides and on perusing the documentary evidence, by Judgment dated 28.06.2022 in C.C. No. 3 of 2014, acquitted the Accused.

7. When the Accused in Crime N0.615 of 2018 corresponding to C.C. No. 3 of 2014 have been acquitted, in connection with the very same occurrence, the private complaint has been filed as against 11 Accused and



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they include Doctors, Investigation Officers etc.,

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8. As per the remarks offered by the learned Judicial Magistrate-IV Salem, the case was proceeded, trial concluded and the Accused were acquitted by Judgment dated 28.06.2022, passed in C.C. No. 3 of 2014. Therefore, it is evident that the relief sought for in the private complaint itself had become infructuous. It is needless to mention that when the Accused in C.C. No. 3 of 2014 had been acquitted after due trial, they cannot be subjected to the rigor of another investigation at the instance of the Petitioner by way of private complaint.

Point for consideration:

Whether the order dated 27.09.2019 passed in Crl.M.P.No.1031 of 2017 by the learned Judicial Magistrate-IV, Salem, is to be set aside as perverse?

9. Heard the learned Counsel for the Petitioner and the learned Senior Counsel appearing for the Respondents. Perused the documents, the order dated dated 27.09.2019 passed in Crl.M.P.No.1031 of 2017 by the learned Judicial Magistrate-IV, Salem and also the judgment dated 28.06.2022 passed in C.C.N.3 of 2014 by the learned Judicial Magistrate No.4, Salem.



WEB COPY10. On perusal of the Judgment dated 28.06.2022, passed in C.C. No.

3 of 2014, it is seen that to substantiate the case of the Prosecution, there was no sufficient materials made available before the learned Judicial Magistrate-IV, Salem. In the absence of incriminating materials available before the Court, the Accused were acquitted on appreciation of evidence. Now, this Crl.M.P.No.1031 of 2017 is filed seeking to direct the investigation to be conducted by a different investigation agency. It is also to be mentioned that the mother of the child, who is the *De facto complainant*, died. The material witness is not available now. Further, the material witnesses collected by the C.B.C.I.D remained hostile before the trial Court, resulting in acquittal of the Accused. Therefore, the prayer to entrust the investigation to a different investigation agency cannot be considered at this length of time. The Crl.M.P. No. 1031 of 2017 itself had become infructuous and no relief can be granted thereof.

11. In the light of the above discussion, the point for consideration is answered in favour of the Petitioner and against the Respondent. The order dated 27.09.2019 passed in Crl.M.P.No.1031 of 2017 on the file of the learned Judicial Magistrate-IV, Salem is found perverse and the same is to be set aside.



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WEB COPY In the result, this Criminal Revision Case is allowed. The order dated 27.09.2019 passed in Crl.M.P.No.1031 of 2017 by the learned Judicial Magistrate-IV, Salem is set aside. Consequently, connected miscellaneous petition is closed.

26.03.2025

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Index : Yes/No

Internet : Yes/No.

Speaking/Non-speaking order

To

1.The Judicial Magistrate No.IV
Salem

2.The Section Officer,
Criminal Section,
High Court of Madras.



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SATHI KUMAR SUKUMARA KURUP, J

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Order made in
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