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CRL RC No. 2179 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-04-2025

CORAM

THE HONOURABLE MR JUSTICE P. VELMURUGAN

CRL RC No. 2179 of 2023

and

CRL MP No.19679 of 2023

1. Leena Manimekalai
D/O.Raghupathy,
Rep. by Power Agent Mr.R.Elango,
No.7, Ricky Garden,
1st Main Road,
Selaiyur, Chennai - 600 073.

Petitioner(s)

Vs

1. Susi Ganeshan
S/o.Subbaiah,
C2, Sical Race View Apartment, No.2,
Race Course Interior Road, Guindy,
Chennai - 600 032.

Respondent(s)

PRAYER: Criminal Revision Petition is filed under Section 397 read with 401 Cr.P.C., to call for the records in CrI.M.P.No.14479 of 2023 in C.C.No.344 of 2019 on the file of the Learned XI Metropolitan Magistrate Saidapet, Chennai and set aside the same.



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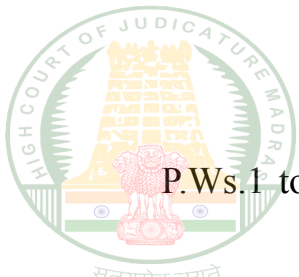
For Petitioner(s): Mr.V.S. Senthilkumar

For Respondent(s): Mr.D.Alexis Sudhakar

ORDER

This Criminal Revision Petition has been filed to call for the records in Crl.M.P.No.14479 of 2023 in C.C.No.344 of 2019 on the file of the Learned XI Metropolitan Magistrate Saidapet, Chennai and to set aside the same.

2. Learned counsel for the petitioner submitted that the respondent herein filed a private complaint under Section 200 of Cr.P.C., against the petitioner herein in C.C.No.344 of 2019 on the file of the IX Metropolitan Magistrate, Saidapet. The petitioner herein has filed a criminal original petition in Crl.O.P.No.5697 of 2022 seeking to transfer the proceedings in C.C.No.344 of 2019 on the file of the learned IX Metropolitan Magistrate, Saidapet to any other Court. The case was subsequently transferred from the IX Metropolitan Magistrate, Saidapet to XI Metropolitan Magistrate, Saidapet. Pending C.C.No.344 of 2019, the respondent herein filed a petition in Crl.M.P.14479 of 2023 to rectify the procedural violations. The learned Magistrate, without any valid reason, passed the impugned order by scrapping the entire evidence of



P.Ws.1 to 6 which is against the fundamental principles. Hence, she filed the present criminal revision petition.

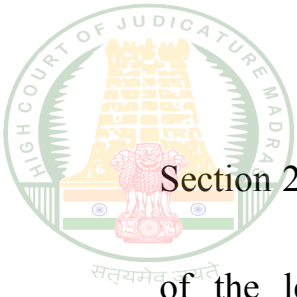
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3. Learned counsel for the respondent submitted that even without recording questioning under Section 251 Cr.P.C., the trial Judge has commenced the trial and proceeded with recording of evidence by way of proof affidavit. Hence, the learned Magistrate allowed the petition filed by the respondent and therefore, the order impugned does not warrant interference

4. Heard the learned counsel on either side and perused the materials available on record.

5. Admittedly, the respondent herein filed a private complaint as against the petitioner herein for the offence of defamation under Section 500 IPC in C.C.No.344 of 2019 on the file of the IX Metropolitan Magistrate, Saidapet, Chennai and later the same was transferred to XI Metropolitan Magistrate, Saidapet Chennai.

6. Evidence of P.Ws.1 to 6 were recorded in the absence of the respondent and even without questioning under Section 251 Cr.P.C. It is seen from the records that even trial commenced without questioning the accused under



Section 251 Cr.P.C. Therefore, there is a procedural lapse. Further, it is the duty

of the learned Magistrate to give opportunity to the accused for giving explanation to the charges. In this case, XI Metropolitan Magistrate has not violated the mandatory procedures. Even without questioning under Section 251 Cr.P.C., the trial has been commenced and evidence has been recorded.

7. Therefore, under the facts and circumstances of the case, this Court does not find any compelling reasons to interfere with the order passed by the learned Magistrate and further, there would not be any prejudice for conducting re-trial. The learned Magistrate is directed to conduct a fresh trial in accordance with law, after giving opportunity to both the parties.

8. With the abovesaid direction, this Criminal Revision is dismissed. Consequently, connected miscellaneous petition is closed.

08-04-2025

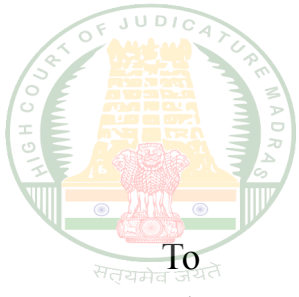
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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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To

The XI Metropolitan Magistrate Saidapet, Chennai



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P.VELMURUGAN J

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