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Crl.R.C.(MD) No.377 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 21.04.2025

Delivered on : 04.08.2025

CORAM:

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.377 of 2025

R.Sivaraman

: Petitioner

Vs.

1.Mohan

2.Govintharaj,
Sub Inspector of Police,
Kumbakonam Taluk Police Station,
Thanjavur District.

3.Rajasekar,
Sub Inspector of Police,
Kumbakonam Taluk Police Station,
Thanjavur District.

4.Dinakaran

: Respondents

Prayer : This Criminal Revision has been filed under Section 438 r/w 442 of BNSS, to call for the records pertaining to the order passed in Crl.M.P.No.812 of 2020, dated 17.04.2024 on the file of the learned Judicial Magistrate No.II, Kumbakonam and set aside the same.

For Petitioner : Mr.S.Veerapandi Selvaraj

For Respondents : Mr.P.M.Vishnuvarthanan, for R1 to R3.



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: Mr.B.Fazilkirmani, for R4.

ORDER

The Criminal Revision Case is directed against the order passed in CrI.M.P.No.812 of 2020, dated 17.04.2024 on the file of the learned Judicial Magistrate No.II, Kumbakonam, dismissing the complaint for non appearance of the complainant.

2.The petitioner/complainant, a Headmaster at Mattiyur Village Aided School, alleges that he and his wife, a teacher at the same school, were involved in a property dispute with the fourth respondent. When the complainant was proceeding in his car from Kumbakonam towards Thiruvidadaimaruthur, the fourth respondent allegedly waylaid the complainant's car, damaged the glass, and attempted to kill him. Despite lodging a complaint with the Kumbakonam Police Station, no action was taken. The complainant further alleges that on 22.03.2020, during the COVID-19 lockdown, the first, second, and third respondents, along with other police constables, trespassed into his home, attacked him with a stick, and arrested him in front of his neighbors. The complainant claims that the police used abusive language, dragged him out of his house, and falsely implicated him in a case. Despite filing several complaints with higher



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officials, no action was taken, prompting the complainant to file a complaint under Section 200 of the Cr.P.C.

3. Upon receipt of the private complaint under Section 200 of the Cr.P.C, the learned Magistrate conducted an inquiry under Section 202 of the Cr.P.C. The Magistrate recorded the sworn statement of the de facto complainant on 10.11.2021, and adjourned the matter for further evidence. However, on 12.04.2024, the learned Magistrate noted the consecutive absence of both parties for over a year and directed the complainant to appear, warning that further orders would be passed in their absence. The matter was posted to 17.04.2024. On 17.04.2024, there was no representation for the complainant, and they were called absent. The Magistrate dismissed the complaint for non-appearance, observing that the complainant had not complied with the conditional order and failed to pursue the complaint. Aggrieved by this order, the present criminal revision has been filed.

4.The learned counsel appearing for the petitioner would submit that the petitioner was unable to appear before the trial Court on 17.04.2024 due to health issues, but the learned Magistrate without considering the same dismissed the complaint for non appearance of the complainant and that the petitioner's non appearance on the particular day is neither willful nor

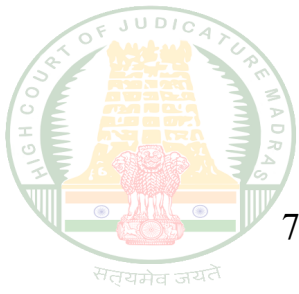


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wanton. The learned counsel would further contend that the learned trial Judge, without following the procedure under Section 200 Cr.P.C., which mandates issuing a notice or summons to the complainant, passed such an order. The learned counsel would submit that the impugned order is unjust and unreasonable and therefore, is liable to be interfered with.

5. The learned counsel appearing for the respondents would submit that since the petitioner has failed to appear for several hearings and despite passing a conditional order, directing the complainant to appear before the concerned Court, the complainant has not turned up and since there was no representation for him, the learned Magistrate with no other option has proceeded to dismiss the complaint and that therefore, there is nothing to interfere with the impugned order.

6. The learned counsel for the petitioner has produced the certified copy of the docket entries commencing from 07.02.202 till the dismissal of the complaint on 17.04.2024. It is evident from the docket entries that initially the case was being adjourned due to covid-19 lock down and thereafter, when the complainant has appeared on 10.11.2021, the learned Magistrate has recorded the sworn statement of the complainant and then adjourned the matter for further evidence.



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7.It is further evident from the docket entries that as per ROC.No.23991-C/2020/C3, dated 02.01.2022 physical hearing was suspended and that subsequently, the complainant has appeared before the concerned Court on 08.06.2022 and thereafter, he remained absent for three hearings and appeared on 05.05.2023 and thereafter, he absented himself for six hearings and thereafter, the Magistrate has proceeded to record that both parties were absent and adjourned the matter for appearance of the complainant and for complainant side further evidence.

8. As already pointed out, when the matter was taken up for hearing on 12.04.2024, considering the continuous absence of the complainant, the learned Magistrate directed the complainant to appear or else further order will be passed and on 17.04.2024 when the matter was taken up again, there was no representation and the complainant was also called absent and the learned Magistrate, by observing that the conditional order was not complied with and that the complainant was not pursuing his complaint, has proceeded to dismiss the complaint for non appearance of the complainant.

9.The learned counsel for the petitioner would submit that the private complaint specifically mentions that CCTV footage from the complainant's house recorded the entire occurrence involving the respondents 1 to 3 and



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other police officials and the same was allegedly produced before the learned Magistrate and is very much available with the records.

10. As noted earlier, despite the case being adjourned for further evidence, the complainant failed to produce witnesses. The learned counsel for the petitioner would argue that even in the absence of further witnesses, the Magistrate should have considered the sworn statement and other available materials on record and proceeded under Section 203 or Section 204 of the Cr.P.C.

11. The learned Magistrate, upon perusing the complaint, sworn statement, and other materials, may dismiss the complaint under Section 203 of the CrPC if there are insufficient grounds to proceed. Conversely, if the Magistrate finds sufficient grounds, they may proceed under Section 204 of the Cr.P.C., for issuance of process. In this context, the learned Magistrate ought to have considered the available materials and decided whether to proceed or dismiss.

12. However, in the present case, the learned Magistrate dismissed the complaint solely due to the complainant's non-appearance, without



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considering the sworn statement, CCTV footage, and other materials on record, which warrants reconsideration.

13. Admittedly, the petitioner failed to appear before the Magistrate for several hearings after filing the private complaint under Section 200 Cr.P.C., and also did not produce further evidence for the inquiry under Section 202 Cr.P.C. However, as rightly pointed out by the learned counsel for petitioner, the complaint raised serious allegations against the respondents, including dragging the complainant and mistreating him on the street, with CCTV footage allegedly supporting the occurrence.

14. Given the facts, circumstances, and materials on record, the impugned order dismissing the complaint for non-appearance cannot be sustained and is liable to be set aside. Consequently, the petitioner is directed to produce his witnesses within one month. The learned Judicial Magistrate is then directed to consider the materials on record and pass orders under Section 203 or Section 204 Cr.P.C., within 15 days from the closure of the complainant's evidence.

15. In the result, the Criminal Revision Case is allowed and the impugned order, dated 17.04.2024 in Crl.M.P.No.812 of 2020, on the file of



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the learned Judicial Magistrate No.II, Kumbakonam, is set aside. The complainant is directed to produce his side witnesses within one month from the date of receipt of copy of this order, for enquiry under Section 202 of Cr.P.C., and the learned Judicial Magistrate is directed to consider the materials available on record and pass orders in accordance with law, within 15 days thereafter.

04.08.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
das

To

- 1.The Judicial Magistrate No.II, Kumbakonam.
- 2.The Section Officer, Criminal Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR, J.

das

Pre-delivery order made in
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04.08.2025