

Crl.R.C.(MD)No.333 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
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Reserved on : 14.02.2025

Pronounced on : 07.03.2025

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.333 of 2024

and

Crl.M.P.(MD)No.3784 of 2024

C.Ganesan

... Petitioner

Vs.

1.State represented by
The Inspector of Police,
Manamadurai Police Station,
Sivagangai District.
(Crime No.346 of 2022)

2.Velayudham

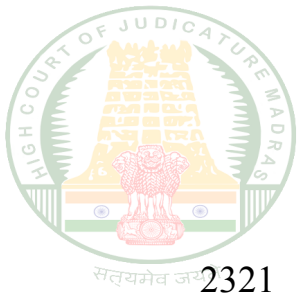
3.Mariselvi

4.Venkatesan

5.Balagurusamy

... Respondents

Prayer : This Criminal Revision Petition filed under Sections 397 and 401 Cr.P.C., to call for the records of the order dated 22.09.2023 in Cr.M.P.No.



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2321 of 2023 passed by the learned Judicial Magistrate Court, Manamadurai, Sivagangai District and set aside the same by allowing the revision petition.

For Petitioner : Mr.A.R.Jeya Rhuthran
For R1 : Mr.B.Thanga Aravindh
Government Advocate (Crl. Side)
For R2 to R5 : Mr.R.Udaya Kumar

ORDER

The Criminal Revision is directed against the order passed in Crl.M.P.No.2321 of 2023 dated 22.09.2023 on the file of the Court of the Judicial Magistrate, Manamadurai, dismissing the protest petition.

2. On the basis of the complaint lodged by the petitioner/defacto complainant, FIR came to be registered in Crime No.346 of 2022 on 16.10.2022 against four accused/respondents 2 to 5 for the alleged offences under Sections 294(b), 323, 324 and 506(2) IPC. The first respondent, after completing the investigation, has laid the final report against two accused/respondents 2 and 4 for the offences under Sections 294(b), 323, 326 and 506(2) IPC and thereby deleting the respondents 3 and 5. The learned Magistrate, after the filing of the charge sheet, has

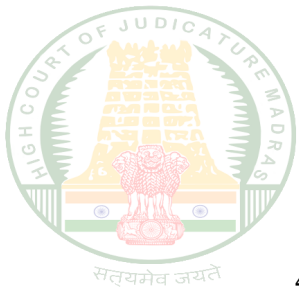


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issued a notice to the petitioner directing him to offer his objections, if any for the deletion of the respondents 3 and 5 in the charge sheet. The petitioner, after the receipt of notice, filed a protest petition in Crl.M.P.No. 2321 of 2023 and the learned Judicial Magistrate, Manamadurai, after conducting enquiry, has passed the impugned order dated 22.09.2023 rejecting the protest petition and thereby accepting the final report filed by the first respondent. Aggrieved by the said order, the defacto complainant has filed the present revision.

3. The case of the petitioner projected in the FIR is that the petitioner is an agriculturist and he had taken lease of agricultural land measuring 44 cents from one Sonaiyan/elder brother of the second respondent and was doing cultivation, that the respondents 2 to 5 developing motive against the petitioner came on 16.10.2022 at about 08.30 a.m. at Pathinettamkottai, that the second respondent assaulted the petitioner with crow bar, whereas, the fifth respondent with handle of the spade and that the respondents 3 and 4 attacked the petitioner with hands and all of them abused him in filthy language and caused criminal intimidation.



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4. It is the further case of the petitioner that the petitioner sustained fracture on his both legs and hands, that one Sumathi, who had come to irrigate her land, saw the injured and thereafter called 108 ambulance and that the petitioner was admitted in Government Hospital, Sivagangai.

5. The case of the prosecution is that the first respondent, during investigation after coming to know that the respondents 3 and 5 were not at all available at the place of occurrence and that the petitioner has given the complaint exaggerating the occurrence, has filed the final report only against the respondents 2 and 4 and thereby deleted the respondents 3 and 5.

6. The learned counsel appearing for the petitioner would submit that the statement found in the complaint and in the statement recorded under Section 161(3) Cr.P.C. from the petitioner are cogent, convincing and truthful, that the medical evidence and the statement of the petitioner are fully cogent and there is no inconsistency version to disbelieve the statement made by the petitioner, that since the occurrence had taken place in an agricultural land, which is located at the outskirts of the village



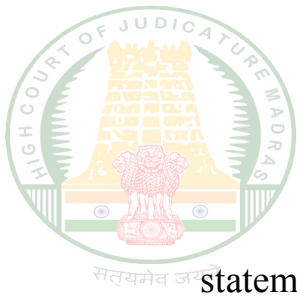
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Pathinettakkottai, no independent witnesses was available, that the testimony of single injured witness can be believed and accused can be convicted and there is no compulsion that the independent witnesses must support the evidence of single eye witness, that the petitioner, who is aged 72 years, has clearly stated about the overt act attributed to each of the respondents 2 to 5 and their presence at the occurrence place and that the witnesses L.W.7 to L.W.14 in their statements have stated that the fourth respondent/third accused had also sustained injury at the time of occurrence but no medical evidence is available to support the said claim.

7. The learned counsel appearing for the respondents 2 to 5 would submit that there existed land dispute between the petitioner and the respondents 2 to 5 family, that the petitioner has falsely lodged the complaint against the respondents 2 to 5 and that the petitioner has not produced any iota of materials to show that the respondents 3 and 5 were present at the occurrence place and committed the offences.

8. No doubt, as rightly contended by the learned counsel appearing for the petitioner, the petitioner, in his complaint as well as in the



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statement under Section 161 Cr.P.C., has implicated the involvement of the respondents 3 and 5. Moreover, at the time of his admission in the hospital, he has stated before the medical officer that he was attacked by four persons. But according to the prosecution, they have examined L.W.7 to L.W.14 as occurrence witnesses and all the witnesses in their statements would say that the respondents 3 and 5 were not at all available at the place of occurrence and that the respondents 2 and 4 alone had attacked the petitioner.

9. As rightly pointed out by the learned Government Advocate (Criminal Side), the first respondent, during investigation, visited the occurrence place and also examined the witnesses, who were working in the nearby fields at the time of occurrence and as per the materials collected, he has come to a decision that the respondents 3 and 5 were not at all involved in the occurrence and that the petitioner has purposely implicated them.

10. It is pertinent to note that the first respondent at the time of filing the charge sheet has also filed an alteration report altering the



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offences from Sections 294(b), 323, 324 and 506(2) IPC to Sections 294(b), 323, 326 and 506(2) IPC against the respondents 2 and 4.

11. As already pointed out, as rightly contended by the learned Government Advocate (Criminal Side), except the petitioner, no other witness has given statement implicating the involvement of the respondents 3 and 5.

12. The learned Magistrate, on considering the complaint, final report, statements recorded under Section 161(3) Cr.P.C. and also the objections raised by the petitioner, has given a finding that the reasons given by the investigating officer for deleting the respondents 3 and 5 are acceptable and that there is no material or evidence to suggest that the investigating officer has acted in bias.

13. As rightly contended by the learned counsel appearing for the respondents 2 to 5, the petitioner has not shown any other material or evidence to show *prima facie* for the involvement of the respondents 3 and 5 in the alleged occurrence.



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14. During trial, if it appears from the evidence that the respondents 3 and 5 were also involved in the commission of the offence, then the learned Judicial Magistrate can very well invoke Section 358 B.N.S.S. (Section 319 Cr.P.C.) and proceed against them. But at the same time, the learned Magistrate has to bear in mind that the power under Section 358 B.N.S.S. (Section 319 Cr.P.C.) is an extraordinary power and the same has to be exercised sparingly and only in the cases where the circumstances of the case warrants.

15. Considering the above, this Court concludes that the revision is devoid of merits and the same is liable to be dismissed.

16. In the result, the Criminal Revision Case stands dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

07.03.2025

NCC :yes/No
Index :yes/No
Internet:yes/No
csm



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To
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1. The Judicial Magistrate,
Manamadurai.
2. The Inspector of Police,
Manamadurai Police Station,
Sivagangai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

csn

Pre-Delivery Order made in
Crl.R.C.(MD)No.333 of 2024
and
Crl.M.P.(MD)No.3784 of 2024

Dated : 07.03.2025