



Crl.R.C.(MD)No.695 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.07.2025

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.R.C.(MD)No.695 of 2023

and

Crl.M.P(MD)No.9724 of 2023

Ramachandran

... Petitioner/DefactoComplainant

Vs.

1.The Inspector of Police,
Sivagiri Police Station,
Sivagiri,
Tenkasi District.
(Crime No.472/2020)

... Respondent/Complainant

2.Jeyarajpandian

... Respondent/Accused

PRAYER : Criminal Revision Case filed under Section 397 r/w 401 of Cr.P.C, to call for records and set aside the order passed in Crl.MP.No. 135 of 2022 in CC.No.191 of 2021 dated 08.08.2022 on the file of the Learned Additional District Munsif cum Judicial Magistrate, Sivagiri by allowing this Criminal Revision Petition.

For Petitioner : Mr.M.Thirunavukkarasu

For R1 : Mr.M.Sakthi Kumar
Government Advocate(Crl.Side)



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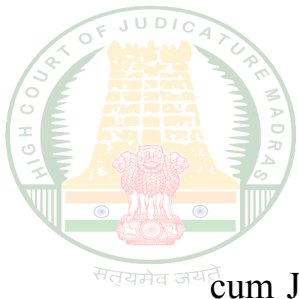
For R2

: Mr.M.P.Senthil

ORDER

Challenging the order passed by the learned Additional District Munsif cum Judicial Magistrate, Sivagiri in a discharge petition filed by the accused in Cr.M.P.No.135 of 2022 in C.C.No.191 of 2021, dated 08.08.2022, this criminal revision case is filed.

2. The petitioner is the defacto complainant and the 2nd respondent is the accused. The accused has been charged under Sections 385, 500 and 506(i) of IPC based on the complaint filed by the defacto complainant, who is a retired IPS Officer. The contention of the prosecution is that on 08.03.2020, the accused issued a legal notice to the defacto complainant making allegations against the defacto complainant that he had encroached and grabbed his property using his high office, attracting offences under Sections 385, 500 and 506(1) of IPC. In this regard, Crime No.472 of 2020 was registered by the Inspector of Police, Sivagiri Police Station and a final report was filed on 28.12.2020 and the same was taken cognizance by the learned Additional District Munsif



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cum Judicial Magistrate, Sivagangai in C.C.No.191 of 2021. Seeking to discharge from the said case, the accused had filed Cr.M.P.No.135 of 2022 and the same was allowed on 08.08.2022. Challenging the same, the defacto complainant is before this Court.

3. The learned counsel for the petitioner submitted that the only ground on which the discharge petition was allowed, was that the prosecution had failed to produce the Advocate notice, on the basis of which, the entire case of defamation has been set up by the prosecution. Categorically observing that the legal notice which is claimed to be defamatory has not been placed before the learned Trial Court so as to enable the said Court to apply its mind in framing of charge against the accused. Stating that the said document is the basic document on which the *prima facie* case has been made, the learned Judicial Magistrate allowed the discharge petition. The learned counsel for the petitioner further relying upon the case of ***Edakkandi Dineshan@ P.Dineshan & Others vs State Of Kerala*** in ***Criminal Appeal No.118 of 2013***, submitted that on account of a defective investigation, the benefit will not inure to the accused for discharge on that ground alone. He



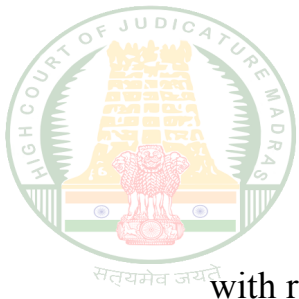
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categorically contended that it is well within the domain of the Courts to consider the rest of the evidence which the prosecution has gathered such as statement of the eyewitnesses etc. Hence, the learned Trial Court ought not to have discharged the accused on the ground of faulty investigation done by the prosecution agency.

4. Per contra, the learned Government Advocate(Crl.Side) submitted that it is only on the basis of the complaint lodged by the defacto complainant along with the copy of the Advocate Notice, the said crime came to be registered by the 1st respondent police. However, the learned Judicial Magistrate had observed that there is no incriminating material to show that the accused had indulged in activities which would attract the Sections 385, 500 and 506(i) of IPC. However, the Advocate Notice is concerned, the prosecution would have very well produced the same before the learned Judicial Magistrate.

5. The learned counsel for the 2nd respondent submitted that already a defamation suit has been filed by the petitioner herein in O.S.No.159 of 2020 on the file of the Additional District Court, Tenkasi



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with respect to the same notice claiming to be defamatory and the learned Additional District Judge, Tenkasi by judgment and decree, dated 20.08.2022 had dismissed the aforesaid suit, against which an appeal has been filed in A.S.No.38 of 2022 has been filed before this Court on 05.12.2022 and the same is pending. When the civil suit with respect to the complaint in this case itself has been dismissed, the question of taking cognizance for the offence under Sections 385, 500 and 506(i) of IPC will not arise. Hence, he pressed for dismissal of this revision case.

6. The learned Government Advocate(Crl.Side) submitted that since the complaint lodged by the petitioner herein would attract the offence under Section 385, 500 and 506(i) of IPC, the 1st respondent police is justified in registering FIR. Had it been an incident which would attract only offence under Section 500 of IPC, then the way out for the petitioner would have been to lodge only a private complaint. Since the other offences are also attracted, the police has registered a case. However, the learned Magistrate had discharged for want of producing the material (documentary) evidence, more particularly the legal notice which is claimed to be defamatory by the petitioner.



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7. Heard the learned counsel for the petitioner, learned Government Advocate(Cri.side) for the 2nd respondent, learned counsel for the 2nd respondent and carefully perused the material available on record.

8. The order impugned in this revision case, dated 08.08.2022 is set aside and the matter is remand back to the learned Additional District Munsif cum Judicial Magistrate, Sivagiri. The learned Trial Court is directed to deal with the matter afresh by applying his mind on the contents of the legal notice and pass fresh orders. Further, this Court hereby directs the 2nd respondent to place on record the aforesaid legal notice which is claimed to be defamatory by the petitioner herein before the learned Trial Court. It is made clear that the order of this Court in this case will not have any effect in the order to be passed by the Trial Court afresh. The Trial Court is directed to dispose the same within a period of one (1) month from the date of receipt of copy of this order. The appearance of the 2nd respondent is dispensed with before the Trial Court, except when his appearance is required for the purpose of the case.



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9. Accordingly, this Criminal Revision Case is disposed of.

Consequently, connected Miscellaneous Petition is closed.

02.07.2025

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

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To

- 1.The Additional District Munsif
cum Judicial Magistrate, Sivagiri.
- 2.The Inspector of Police,
Sivagiri Police Station,
Sivagiri,
Tenkasi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI ,J.

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Order made in
Crl.R.C.(MD)No.695 of 2023

Dated: 02.07.2025