

Crl.R.C.(MD)No.628 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 03.04.2025

Delivered on : 03.06.2025

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.628 of 2024

Chithiravel

: Petitioner

Vs.

Mayalagu,
Sub-Inspector of Police,
Udaiyalipatti Police Station,
Pudukottai District.

: Respondent

PRAYER : Criminal Revision Petition filed under Section 397 r/w 401 of Cr.P.C., to call for the entire records pertaining to the order passed by the learned Judicial Magistrate, Keeranur, Pudukottai District in Cr.M.P.No.312 of 2024 vide order, dated 10.04.2024 and set aside the same.

For Petitioner : Mr.M.Pitchai Muthu

For Respondent : Mr.P.Arun Jayatram

ORDER

The Criminal Revision is directed against the order passed in Cr.M.P.No.312 of 2024, dated 10.04.2024 on the file of the learned Judicial



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Magistrate, Keeranur, Pudukottai District, dismissing the complaint under Section 203 of the Code of Criminal Procedure.

2.The case of the petitioner/defacto complainant is that there arose some wordy quarrel between his mother and his brother's wife; that when the petitioner's wife had intervened, the petitioner's brother's wife had informed the issue to his brother Veeramai and mother Indirani, who in turn came to the petitioner's house at about 90.30 am on 09.09.2023 abused them in filthy language, attacked them and caused criminal intimidation; that the petitioner, who went to his field while returning to his home, heard the screaming voices of his wife; that when he entered into his house, the said Veeramani by saying that they have come to kill him, had attempted to stab on his neck portion with a knife; that when the petitioner had escaped by preventing the said attack with his towel, the said Veeramani had again attempted to attack the abdomen portion and when the same was attempted to be prevented, the petitioner sustained injuries on his hands; that the neighbours had intervened and sent the said Veeramani out of that place; that the petitioner while taking treatment at Pudukottai Government Hospital, necessary intimations were sent to the Udaiyalipatti Police, but



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they have not turned up for getting any statement from the petitioner or his wife; that the petitioner was constrained to lodge the complaint before the District Superintendent of Police, Pudukkottai on 11.09.2023 and the respondent, who was then working as Sub-Inspector of Police, Udaiyalipatti Police Station, after coming to know about the complaint, contacted through SP CID Raja and threatened not to lodge any complaint; that since the petitioner has lodged the complaint, the respondent had obtained false complaint from the petitioner's brother's wife and obtained signatures in two blank papers from the petitioner's wife; that when the petitioner's wife was discharged from the hospital on 12.09.2023 threatened the petitioner to withdraw the complaint or else, he would register an FIR on the basis of the complaint received from his brother's wife and would put them in jail; that the petitioner has then sent complaints to the DIG of Police, Deputy Superintendent of Police and thereafter, the petitioner and his wife were summoned them for enquiry; that when both of them appeared for enquiry at about 10.30 am on 15.09.2023, the respondent had again threatened to withdraw the complaint or else she would register a case again both of them; that the respondent had again contacted the petitioner through phone at about 08.00 am on 30.09.2023 and threatened that complaints sent by him to

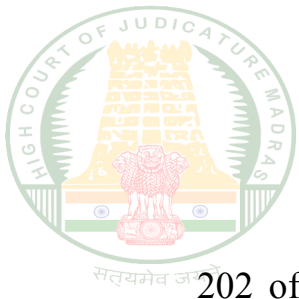


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all the authorities would return to her and as such, he cannot do anything; that again the petitioner and his wife were summoned by the respondent to appear for enquiry on 08.10.2023 and when both of them appeared at about 11.00 am, the respondent had again threatened to withdraw the complaint that though the petitioner's brother's wife Thilaga and her mother Indirani had started to abuse the petitioner's wife in filthy language and also attempted to attack them in the presence of the respondent, but the respondent, without intervening, had only threatened the petitioner that he would foist Ganja case against them; that when the petitioner has refused to withdraw the complaint, the respondent by abusing him in filthy language had attempted to attack him; that the respondent has then registered a false case on 20.10.2023 and threatened to arrest them; that the petitioner was constrained to obtain anticipatory bail and was put to mental depression; that since the petitioner's complaint to the higher police officials was of no avail, the petitioner was constrained to file the present private complaint under Section 200 of Cr.P.C.

3.The learned Judicial Magistrate, by receiving the complaint filed under Section 200 of Cr.P.C., has proceeded with the enquiry under Section



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202 of Cr.P.C. The learned Magistrate has recorded the statement of the petitioner/defacto complainant and three other persons, namely Thiru.Karupaiah, Thiru.Karunanidhi and Thiru.Paulraj produced by the petitioner. The learned Magistrate, upon considering the complaint and the statements of the defacto complainant and other witnesses and documents available on record, has passed the impugned order, dated 10.04.2024, dismissing the complaint under Section 203 of Cr.P.C. Challenging the dismissal order under Section 203 Cr.P.C., the present revision came to be filed.

4.The petitioner's primary grievance is that despite his complaint against his brother's wife and her family members, the respondent failed to register a case and instead repeatedly pressured him to withdraw it. The petitioner alleges that the respondent abused him and his wife during an inquiry, attempted to attack him, and issued criminal threats. In his sworn statement, the petitioner elaborated on these incidents, reaffirming the complaint's allegations.

5.Three witnesses corroborated the petitioner's claim, stating that the respondent threatened him to withdraw the complaint. Although the learned



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Magistrate noted contradictions between the witnesses' statements and the petitioner's, specific details varied: witnesses Karupaiah and Karunanithi alleged the respondent slapped the petitioner and threatened to frame them in a Ganja case, while witness Paulraj claimed the respondent physically assaulted the petitioner's wife, causing them to fall, and made similar threats.

6. It is pertinent to note that the petitioner has produced two CDs as evidence: one allegedly containing phone threats from the respondent and the other purportedly showing an attempt to attack him at the police station. However, the Magistrate declined to consider this evidence, citing non-compliance with Section 65B of the Indian Evidence Act, as the petitioner failed to identify who recorded the CD, provide the primary source, or meet other necessary requirements.

7.As rightly contended by the learned counsel for the petitioner, the learned Magistrate, prematurely rejected the CDs without even marking them as evidence, essentially judging their admissibility as if they were trial evidence.



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8.The Magistrate's role at this stage is to determine whether there's sufficient ground for proceeding, not to decide on the admissibility of evidence, including the compact disks and compliance with Section 65B of the Indian Evidence Act. Therefore, the Magistrate's rejection of the petitioner's evidence on these grounds is unjustified.

9.During a Section 202 Cr.P.C. enquiry, following a private complaint under Section 200 Cr.P.C., the Magistrate has two options: dismiss the complaint under Section 203 Cr.P.C. if there is insufficient ground for proceeding, based on the complainant's sworn statement, witness statements, and other materials; or issue process for the accused's appearance under Section 204 Cr.P.C. if sufficient reason exists.

10.The petitioner alleged an incident at the police station, which could be verified through CCTV footage. However, the Magistrate's observation that the petitioner failed to obtain the footage is unreasonable, given that the complaint is against the Sub-Inspector of that very police station.

11. As already pointed out, the defacto complainant and other witnesses would say that the respondent had threatened the petitioner to



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withdraw the complaint or else, a false case would be foisted against him and his wife and even according to the learned Magistrate, the petitioner has produced two compact disks to substantiate the complaint contentions. Hence, this Court concludes that the impugned order cannot be sustained and the same is liable to be set aside.

12. In the result, the Criminal Revision Case is allowed and the impugned order passed in Cr.M.P.No.312 of 2024, dated 10.04.2024 on the file of the learned Judicial Magistrate, Keeranur, Pudukottai District, is set aside. The learned Magistrate shall take the case on file and issue process under Section 204 Cr.P.C., for the offences that are attracted and proceed in accordance with law.

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NCC : Yes / No
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K.MURALI SHANKAR, J.

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Pre-delivery order made in
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