



Crl.R.C.(MD)No.471 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
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Reserved on : 13.02.2025

Pronounced on : 07.03.2025

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

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Ramasamy

... Petitioner

Vs.

Murugaperumal
Sub Inspector of Police,
Srivaikundam Police Station,
Srivaikundam,
Thoothukudi District.

... Respondent

Prayer : This Criminal Revision Petition filed under Sections 397(1) r/w 401 Cr.P.C., to call for the records and set aside the order dated 02.07.2019 passed in Cr.M.P.No.3677 of 2018 on the file of the learned Judicial Magistrate, Srivaikundam, Thoothukudi District.

For Petitioner : Mr.K.Veilmuthu

For Respondent : Mr.S.Deenadayalan



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ORDER

The Criminal Revision is directed against the order passed in Crl.M.P.No.3677 of 2018 dated 02.05.2019 on the file of the Court of the Judicial Magistrate, Srivaikundam, dismissing the private complaint filed under Section 200 of the Code of Criminal Procedure.

2. The petitioner alleges that on 30.03.2018, at approximately 9:00 a.m., Police Constable Muthukumar visited his residence and instructed him to appear for an inquiry before the Inspector of Police. Upon arrival at the police station, the petitioner was met by the respondent, Sub Inspector of Police, who seized his cell phone and directed him to remove his shirt. The respondent then ordered his subordinates to register an FIR and left the station. Upon his return at 12:00 noon, the respondent inquired about the petitioner's community, to which the petitioner replied that he belonged to the Hindu Pallar community. The respondent allegedly retorted with derogatory remarks, abused, and intimidated the petitioner, directing the police to take him into remand. The petitioner was subsequently produced before the Magistrate, where he experienced a medical episode due to shock. Despite the Magistrate's directions to take



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the petitioner to the hospital, the police returned him to the Srivaikundam Police Station. The respondent continued to abuse the petitioner, eventually directing the police to take him to the hospital. While receiving treatment, the petitioner was granted bail. However, due to his poor health, depression, and mental agony, he was unable to appear before the police as directed by the Court. On 09.04.2018, the petitioner visited the police station with his advocates, where the respondent again abused and intimidated him. The petitioner alleges that the respondent's actions constitute offences under Sections 294(b), 211, and 506(2) of the IPC and Section 3(1)(x) of the SC/ST Act. As no action was taken on his complaint to the District Superintendent of Police, the petitioner was compelled to file a private complaint.

3. It is evident from the records that after receipt of the complaint, the learned Magistrate has recorded the sworn statement of the petitioner and thereafter, three witnesses Selvin Jelnet and two advocates, namely, Tamilanraja and Vasanthkumar produced by the petitioner came to be examined. The learned Magistrate, considering the complaint, sworn statement of the petitioner and statements recorded from the other three

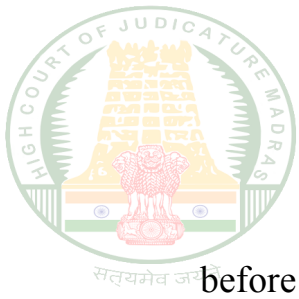


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witnesses and on hearing the petitioner's side, by holding that there is no materials *prima facie* to proceed against the respondent, has passed the impugned order dated 02.05.2019 dismissing the complaint. Challenging the dismissal of the complaint, the present revision came to be filed.

4. It is pertinent to mention that the learned Magistrate has observed that since the respondent was alleged to have abused the petitioner while discharging his duty as an investigating officer, sanction under Section 197 Cr.P.C. is not necessary. But it is settled law that sanction is not required to prosecute police officers below the rank of Inspector of Police as these officers can be dismissed by higher police authorities themselves. Recently, the Hon'ble Division Bench of this Court in ***Karthikeyan and others Vs. Thangapandian*** reported in ***2024 LiveLaw (Mad) 289*** has specifically held that no prior sanction under Section 197 Cr.P.C. needed to prosecute police officers below the rank of Inspector of Police. When a reference was made as to whether the term “removable by government” could be interpreted in a broad perspective to include police officers from the rank of Constable to Inspector of Police, the Division Bench observed that though Article 14 of the Constitution guaranteed the right to equality

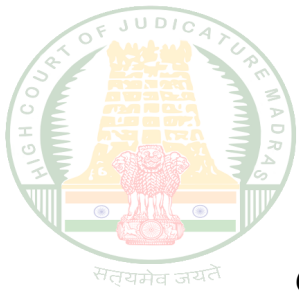


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before the law and equal protection of the law, it could not be misconstrued to apply against the hierarchies in the administrative aspects. Considering the settled legal position above referred, the finding of the learned Magistrate, though on a different footing, that no sanction is required under Section 197 Cr.P.C., cannot be found fault with.

5. As already pointed out, the petitioner has claimed that the respondent has committed the offences under the SC/ST (POA) Act. It is pertinent to note that SC/ST (POA) Act can be invoked only against the members not belonging to the SC/ST community. In the present case, the petitioner has nowhere whispered about the community of the respondent and it is not his specific case that the respondent is not belonging to the SC/ST community. The petitioner has produced his community certificate to show that he belongs to Hindu Pallar community but he has not produced any iota of evidence to show the community of the respondent. In the absence of any materials to show that the respondent belongs to some other community other than the SC/ST community, no *prima facie* case attracting the provisions of the said Act can be stated to be made out against the respondent.



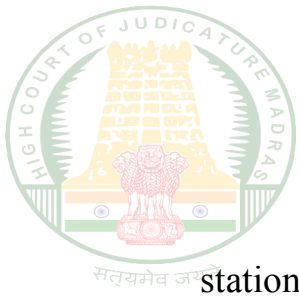
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6. It is pertinent to mention that though the petitioner has alleged that he was called upon for an enquiry; FIR came to be registered; he was subsequently remanded and he was released on bail, he has nowhere whispered about the particulars of the case which came to be filed against him. The petitioner has not produced any iota of materials to show the nature of the case initiated against him.

7. It is not the specific case of the petitioner that there existed previous enmity between him and the respondent earlier.

8. As aptly pointed out by the learned counsel for the respondent, the statement of Selvin Jelnet, the alleged occurrence witness and self-proclaimed close friend of the petitioner, strains credulity. According to Selvin, he arrived at the police station after contacting the petitioner via phone and found the respondent wearing only a 'thothi' (vest) without a skirt. He claimed that the respondent inquired about the petitioner's community and, when questioned, threatened to detain him, prompting Selvin to leave the station and return home. Similarly, the statements of the two advocates who allegedly accompanied the petitioner to the police



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station to comply with the court's directive appear contrived. As the respondent's counsel rightly contended, it seems that the petitioner has orchestrated these witnesses to support his case.

9. Moreover, though the petitioner has alleged that the respondent abused him in filthy language, he has nowhere stated that the respondent abused him using caste name.

10. According to the petitioner himself, the respondent directed the registration of an FIR, following which the petitioner was taken into remand. As the learned Magistrate aptly observed, it is standard procedure to obtain the particulars of the accused, including identification marks. Notably, the petitioner failed to disclose the details of the case filed against him, instead solely alleging that he was insulted, humiliated, and threatened.

11. As rightly contended by the learned counsel appearing for the respondent, the petitioner has not at all attributed any motive against the respondent for the alleged acts.



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12. Considering the nature of the complaint and the charges leveled against the respondent, this Court is of the opinion that the petitioner filed the present complaint as a counterblast and retaliatory measure in response to the criminal case filed against him. Entertaining such complaints would hinder police officials' ability to conduct free and fair enquiries/ investigations.

13. Upon reviewing the available materials, this Court concurs with the learned Magistrate's observation that there is no prima facie evidence to substantiate the alleged offences against the respondent. Consequently, no cognizance can be taken, and the complaint was rightly dismissed. In conclusion, this Court finds that the impugned order dismissing the private complaint under Section 200 Cr.P.C. is unassailable. The revision, lacking merit, is liable to be dismissed.

14. In the result, the Criminal Revision Case is dismissed. No costs.

07.03.2025

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



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To
1. The Judicial Magistrate,
Srivaikundam,
Thoothukudi District.



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K.MURALI SHANKAR,J.

csn

Pre-Delivery Order made in
Crl.R.C.(MD)No.471 of 2019

Dated : 07.03.2025