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Crl.R.C(MD)No.1177 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 28.01.2025

Pronounced on : 12.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C(MD)No.1177 of 2024

and

Crl.M.P(MD)Nos.12376 and 12378 of 2024

1.Arumugam
2.Anand Jeyakumar
3.Karupasamy Pandiyan

... Petitioners

Vs.

1. State of Tamilnadu rep. by
The Inspector of Police,
CBCID - OCU,
Tiruchirappalli District.
(In Crime No.1 of 2016)

2.T.S.Pasupathy

... Respondents

PRAYER: This Criminal Revision Case has been filed under Sections 438 r/w 442 of BNSS, 2023, to call for the records and set aside the order passed in Cr.M.P.No.39985 of 2024 in C.C.No.437 of 2021 on the file of the Judicial Magistrate No.VI, Tiruchirappalli, dated 28.10.2024.

For Petitioner : Mr.P.Edin Brough
For R1 : Mr.M.Vaikkam Karunanithi
Government Advocate (Crl.side)
For R2 : Mr.D.Muthukumar



ORDER

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This Criminal Revision Case is filed against the order, dated 28.10.2024 passed in Cr.M.P.No.39985 of 2024 in C.C.No.437 of 2021 on the file of the learned Judicial Magistrate No.VI, Tiruchirappalli.

2.The brief facts of the case:

The second respondent and his family members were accused in six cases registered before the Virukambakkam Police Station. They were granted bail with the condition to sign before the Inspector of Police, Virukambakkan and later, that condition was modified as to sign before the Inspector of Police, Trichy Cantonment Police Station. On 05.11.2014, when the second respondent and his family members went to the Trichy Cantonment Police Station, it was alleged that the Inspector of Police Virkambakkan Police Station, his driver Kannan accompanied by the Sub Inspector of Police and 10 others belong to the Vadapalani Police Station dragged and attacked them. As there was no action taken by the police, the second respondent moved with CrI.O.P.(MD)No.13947 of 2015 before this Court and as per the order passed by this Court, the case in Crime No.788 of 2015 U/s.147, 341, 294(b), 323, 506(1) IPC was registered by the Trichy Cantonment Police and then transferred to CBCID as per order, dated 18.10.2016 passed by this Court in CrI.O.P.(MD)No.904 of 2016. The CBCID registered the case in



Crime No.1 of 2016 U/s.147, 341, 294(b), 323 & 506(1) IPC and after investigation laid the final report on 03.08.2018 before the Judicial Magistrate No.VI, Trichy, by referring the complaint as 'mistake of fact'. On receipt of the said final report, the learned Judicial Magistrate No.VI, Trichy issued notice to the defacto complaint/2nd respondent, who filed an objection and it was taken as CrI.M.P.No.6021 of 2018. After consideration, the learned Judicial Magistrate No.VI, Trichy passed the order, dated 01.04.2021 thereby, took cognizance as C.C.No.437 of 2021 U/s.294(b), 323, 354, 506(1) r/w 34 of IPC and U/s.4 of TNWH Act against Accused Nos.1 to 3 alone leaving other accused as name not mentioned and the case in C.C.No.437 of 2021 is pending.

2. At this stage, the second respondent has filed the petition in CrI.M.P.No.39985 of 2024 in C.C.No.437 of 2021 U/s.319(1) of Cr.P.C., before the Judicial Magistrate No.VI Court, Trichy to implead (1) Mr.Arumugam (Head Constable - 24220) (2) Mr.Anand Jayakumar (Police Constable - 32414) and (3) Mr.Karuppasamy Pandian (PC - 4628) (revision petitioners herein) as accused and the said petition was allowed on 28.10.2024.

3. Aggrieved by the said impugned order, the petitioners have come forward with this present criminal revision case.



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4. Heard the learned counsel appearing for the petitioners, the learned Government Advocate (Criminal Side) appearing for the first respondent, and the counsel for the second respondent and perused the records in this Criminal Revision Case.

5. The learned counsel appearing for the revision petitioners has submitted that the name of the petitioners were not specifically mentioned by the second respondent. The second respondent has already filed the petition in Crl.M.P.No.5573 of 2021 seeking the very same prayer and the same was dismissed by the learned Judicial Magistrate VI, Trichy on 07.09.2021. The second respondent has not produced any material in that petition. Now he has falsely stated that he came to know from the final report about the revision petitioners and filed the petition in Crl.M.P.No.39985 of 2024 after ten years of the alleged occurrence which took place on 05.11.2014. The learned counsel further vehemently argued that the second respondent has already filed Crl.R.C(MD)No.197 of 2023 against the dismissal of Crl.M.P.No.5573 of 2021 and the said Crl.R.C(MD)No.197 of 2023 was also dismissed with liberty to file the petition after examination of occurrence witnesses. None of the occurrence witnesses deposed the name of the petitioners in their evidence. The second respondent suppressed those facts. The learned Judicial Magistrate No.VI, Trichy has not considered all these facts and passed the impugned order



impleading the revision petitioners as accused and therefore, the impugned order is liable to be set aside. Therefore, this criminal revision may be allowed.

6. The learned Government Advocate (Criminal Side) appearing for the first respondent has submitted that the first respondent has filed the final report as 'mistake of fact', but the trial Court has taken on cognizance against Accused Nos.1 to 3. There is no material to take cognizance against the petitioners.

7. The learned counsel for the second respondent has submitted that Accused Nos.1 to 3 and others including the petitioners have been involved in the commission of offence committed against the second respondent and his family members while complying with the bail condition before the Trichy Cantonment Police Station on 05.11.2014. Accused No.1/Jeyaraj came in uniform and all others came in mufty. The trial Court has rightly passed the impugned order.

8. On hearing both sides and on perusal of records, it is clear that the trial Court has taken cognizance as C.C.No.437 of 2021 against Accused Nos.1 to 3 upon the protest petition filed by the second respondent against the final report closing the complaint as 'mistake of fact'. Thereafter, the second



respondent has filed the petition in CrI.M.P.No.5573 of 2021 in C.C.No.437 of 2021 U/s.319(1) of Cr.P.C., before the trial Court to implead the revision petitioners as accused and the said petition was dismissed on 07.09.2021 on the ground that the second respondent as C.W.1 and other witnesses C.W.2 to C.W.6 have not made any statement against the revision petitioners and also there is no material against them.

9. Aggrieved by the said dismissal order, the second respondent has filed CrI.R.C(MD)No.197 of 2023 before this Court, wherein this Court has passed the order on 09.03.2023 dismissing the revision as follows:

“4. The learned Magistrate, in the impugned order, has specifically observed that there is no specific evidence available against the proposed accused and that even after seeing the CD containing the entire occurrence, the defacto complainant was not in a position to say any accusation against the proposed accused.

5.It is evident from the records that in the enquiry under section 202 Cr.P.C, six witnesses have been examined and the learned Magistrate, after considering the evidence of the witnesses examined, has come to a decision that there is no evidence available as of now against the proposed accused.



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6. Considering the facts and circumstances of the case and also the evidence now placed before this Court, the dismissal of the petition filed under Section 319(1)Cr.P.C cannot be found fault with. Hence, this Court decides that the revision petition is devoid of merits and the same is liable to be dismissed.

7. In the result, the criminal Revision is dismissed. However, the petitioner is at liberty to file a protest petition under section 319 Cr.P.C, after examination of the occurrence witnesses at the trial and if the proposed accused were implicated therein.”

10. In the meanwhile, Accused Nos.1 to 3 filed the quash petition in CrI.O.P(MD)No.13353 of 2021 the same was dismissed on 06.06.2024. The second respondent has also filed CrI.O.P(MD)No.1779 of 2024 for direction for speedy disposal of the case by the trial Court and the same was allowed on 15.07.2024 with a direction to the learned Judicial Magistrate No.VI, Trichy, to conclude the trial in C.C.No.437 of 2021 within a period of five months from the date of receipt of the order.

11. Amidst the above facts and circumstances, the second respondent has again filed the petition U/s.319(1) of Cr.P.C. in CrI.M.P.No.39985 of 2024



before the Judicial Magistrate Court No.VI, Trichy on 19.12.2023 with the averments, which were already stated in his earlier petition in CrI.M.P.No.5573

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of 2021 by stating that the second respondent came to know the names of other accused i.e., the names of the proposed accused (revision petitioners) after perusing the final report. After dismissal of CrI.R.C(MD)No.197 of 2023 on 09.03.2023, six witnesses were examined in chief on 24.08.2023 and 21.09.2023. On perusal of their evidence, they have only stated that Accused No.1/Jeyaraj along with 10 others have involved in the occurrence. They have not specifically mentioned about the name of these present revision petitioners. Therefore, there is no *prima facie* material in the oral evidence of LW1 to LW6 against these revision petitioners.

12. On perusal of the impugned order it is seen that the trial Court has only reproduced the statements of witness Tr.Panneerselvam, then Inspector of Police, Vadapalani Police Station (LW35 - Tr.Palaniselvam in final report) and the proposed accused Tr.Karuppasamy Pandian. The trial Court has not observed the direction of this Court passed in CrI.R.C.(MD)No.197 of 2023 and without applying its mind simply passed the impugned order. In their chief examination, the witnesses have not deposed the names of the revision petitioners. The second respondent has also not disclosed these particulars in his petition. Therefore, I am of the considered view that the petition of the



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second respondent is devoid of merits and the same deserves interference by this Court. Therefore, this Court is inclined to allow this criminal revision case.

13. In the result, this Criminal Revision Case is allowed. The order, dated 28.10.2024 passed in Cr.M.P.No.39985 of 2024 in C.C.No.437 of 2021 on the file of the learned Judicial Magistrate No.VI, Tiruchirappalli, is set aside. Consequently, the connected Miscellaneous Petitions are closed.

12.03.2025

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

To

- 1.The Judicial Magistrate No.VI,
Tiruchirappalli
- 2.The Inspector of Police,
CBCID, OCU,
Tiruchirappalli District.
(In Crime No.1 of 2016)
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.VADAMALAI, J.

VSD

Pre - Delivery Order made in
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12.03.2025