



Crl.R.C.(MD)No.477 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 02.02.2026

CORAM:

THE HON'BLE MR.JUSTICE **MOHAMMED SHAFFIQ**

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S.Saravanan

..Petitioner

Vs.

1. The Inspector of Police,
West Police Station,
Kovilpatti.
(Crime No.148 of 2017)

2. R.Ramesh

3. Sundarrajan

4. V. Seenivasan

..Respondents

PRAYER: Criminal Revision Petition is filed under Section 397 r/w 401 of Cr.P.C, to call for the records pertaining to the order made in R.C.S.No.5 of 2018 on the file of the learned Judicial Magistrate Court No.2, Kovilpatti dated 11.04.20218 and set aside the same and consequently direct the learned Judicial Magistrate, Kovilpatti to entertain the protest petition made in R.C.S.No.5 of 2018.



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For Petitioner : Mr.Abrar Abdullah
for M/s.J.Senthil Kumaraiah
For R1 : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor
For R2 to R4 : Mr.S.Ramasamy

ORDER

The present Criminal Revision Petition is filed challenging the order dated 11.04.2018 passed by learned Judicial Magistrate, Court No. 2, Kovilpatti, in R.C.S. No. 5 of 2018, whereby the objections raised by petitioner in the protest petitions were held to be without merit and consequently dismissed.

2. The challenge is primarily on the ground that impugned order suffers from gross non-application of mind to relevant aspects/material on records and also from vice of being a non-speaking order.

3. Brief facts of the case are that petitioner herein is de-facto complainant, who lodged a complaint against respondents 2 to 4 before 1st respondent police. Based on the said complaint, 1st respondent police registered a case in Cr.No.148 of 2017 against respondents 2 to 4 for offences punishable under Sections 294(b), 307, and 506(ii) of the IPC.



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4. Learned counsel for petitioner/de-facto complainant would submit that on 21.03.2017, at about 1:30 PM, when petitioner, along with his friends, was proceeding to a restaurant, he noticed that some unknown persons were attempting to break open the lock of a company belonging to him. Immediately, petitioner/de facto complainant rushed to the spot, whereupon one Ramesh abused him in filthy language and attacked him with a sword, as a result of which, the petitioner/de-facto complainant sustained injuries to his left hand. Subsequently, one Sundarrajan and Seenivasan pushed petitioner aside and assaulted him. Thereafter, petitioner /de-facto complainant's friends rescued him from the spot and admitted him to the Government Hospital, Kovilpatti. A case in Crime No.148 of 2017 was registered by 1st respondent police and after completion of investigation, on the file of Judicial Magistrate No.II, Kovilpatti. Charge sheet was filed by Investigating Officer stating that the case arose out of a "mistake of fact".

5. Aggrieved by the above charge sheet, Petitioner/de-facto complainant filed a protest petition in R.C.S.No.5 of 2018 before the Trial Court stating that Investigating Officer had not conducted the investigation in a proper manner. Primarily, protest petition *inter alia* narrates the following:-



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- a) The witnesses 2 to 4 are all close relatives and therefore, interested;
 - b) The Investigating Officer ought to have been seen that there was a blood stained shirt and therefore, ought to have sent to the forensic laboratory;
 - c) Petitioner was not examined;
 - d) Investigating Officer had not even visited the place of occurrence as would be evident from the information provided under RTI Act.

6. Learned counsel for petitioner would submit that Judicial Magistrate

No.II, Kovilpatti had rejected the protest petition stating as under:-

“But on perusal of records, the investigating officer properly investigated the matter and then alone the referred charge sheet was filed by him as mistake of fact. The objections raised by the defacto complainant are not sustainable. So this Court is not inclined to interfere with the charge sheet filed by investigating officer.

Hence, this protest petition is dismissed. F.I.R closed. Further the defacto complainant is directed to file private complaint separately if necessary.”

7. Learned counsel for petitioner would submit that Trial Court was under a legal obligation to peruse the entire materials available on record and assign cogent and sufficient reasons while rejecting the grounds raised in the protest petition.



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8. According to learned counsel for petitioner, impugned order merely records that the Investigating Officer had conducted a proper investigation, without advertent to or considering the specific defects and infirmities pointed out in the protest petition. It is therefore urged that impugned order is vitiated by non-assignment of reasons and non-application of mind to the materials on record.

9. In support of his contentions, learned counsel for petitioner has relied upon the judgment of the Hon'ble Supreme Court in the case of **Vishnu Kumar Tiwari vs. State of Uttar Pradesh**, reported in (2019) 8 SCC 27. Relevant portion of the said order reads as under:-

“27. It is undoubtedly true that before a Magistrate proceeds to accept a final report under Section 173 and exonerate the accused, it is incumbent upon the Magistrate to apply his mind to the contents of the protest petition and arrive at a conclusion thereafter. While the investigating officer may rest content by producing the final report, which according to him, is the culmination of his efforts, the duty of the Magistrate is not one limited to readily accepting the final report. It is incumbent upon him to go through the materials, and after hearing the complainant and considering the contents of the protest petition, finally decide the future course of action to be, whether to continue with the matter or to bring the curtains down.”



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10. Per contra, learned Additional Public Prosecutor appearing for 1st respondent would submit that the contention advanced by learned counsel for petitioner is not correct, inasmuch as petitioner was in fact examined during the course of investigation.

11. If that be so, Judicial Magistrate No.II, Kovilpatti. ought to have called for the records and verified whether the Petitioner had indeed been summoned by the Investigating Officer and whether his statement had been duly recorded.

12. The impugned order does not indicate that independent application of mind has been exercised by the Court below. It merely reproduces a brief summary of the complaint without advertng to the issues raised in the protest petition. In such circumstances, this Court is inclined to set aside the impugned order dated 11.04.2018.

13. Accordingly, impugned order dated 11.04.2018 stands quashed. The Judicial Magistrate No.II, Kovilpatti is directed to reconsider the protest petition afresh and pass appropriate orders on merits and in accordance with law as expeditiously as possible.



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14. With these observations and directions, criminal revision petition stands disposed of. No costs.

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Index :yes/No
Internet:yes/No
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MOHAMMED SHAFFIQ,J.

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To

1. The Judicial Magistrate Court No.2,
Kovilpatti
2. The Inspector of Police,
West Police Station,
Kovilpatti.
(Crime No.148 of 2017)
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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