



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.09.2013

C O R A M

WEB COPY

THE HONOURABLE Mr. JUSTICE A.SELVAM

CRIMINAL REVISION CASE (MD) No.242 of 2013

and

MISCELLANEOUS PETITION (MD) No.1 of 2013

Muthuramalingam

.. Petitioner/

De facto complainant

Vs

1.Thangachamy

2.Vasuki

3.Thavamani

.. Respondents/

Accused Nos.1 to 3

Criminal Revision Case has been filed under Sections 397 read with 401 of the Code of Criminal Procedure, 1973 against the 'B' Diary order dated 17.01.2013 passed in Calendar Case No.135 of 2010 by the Judicial Magistrate's Court, Aruppukottai.

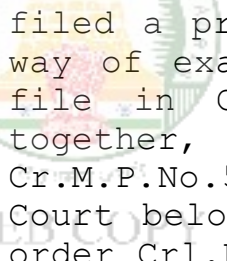
For Petitioner : Mr.T.K.Gopalan

For Respondents : Mr.S.Deenadayalan

ORDER

The order dated 17.01.2013 passed in Calendar Case No.135 of 2010 by the Judicial Magistrate, Aruppukottai is being challenged in the present Criminal Revision Case.

2.The learned counsel appearing for the revision petitioner/de facto complainant has contended that the revision petitioner/de facto complainant has given a complaint under Section 154 of the Code of Criminal Procedure, 1973 in Veeracholan Police Station and the same has been registered in Crime No.68 of 2009 and the Investigating Officer after conducting investigation has laid a final report before the Judicial Magistrate, Aruppukottai and the same has been taken on file in Calendar Case No.57 of 2010 against a single accused by name Thangachamy and since Calendar Case No.57 of 2010 has been taken on file against the said accused by way of leaving the remaining two accused viz., Vasuki and Thavamani, the de facto complainant as complainant has



filed a private complaint on the file of the Court below and by way of examining relevant witnesses, the same has been taken on file in Calendar Case No.135 of 2010 and in order to club together, the de facto complainant has filed a petition in Cr.M.P.No.5535 of 2010 in Calendar Case No.135 of 2010, but the Court below has dismissed the petition and against the dismissal order Crl.R.C(MD)No.668 of 2011 has been filed on the file of this Court and this Court has directed to club Calendar Case No.57 of 2010 and Calendar Case No.135 of 2010 and inspite of the order passed by this Court, the Court below has passed the impugned order by way of directing the de facto complainant to produce witnesses for framing charge in Calendar Case No.135 of 2010 and therefore the impugned order passed by the Court below is liable to be set aside.

3.Per contra, the learned counsel appearing for the respondents/accused has contended that the impugned order is nothing, but an interlocutory order and as per Section 397(2) of the Code of Criminal Procedure, 1973, no revision is maintainable and further the Court below for framing charges in Calendar Case No.135 of 2010, has passed the impugned order and therefore the present Criminal Revision Case deserves dismissal.

4.It is an admitted fact that in Crl.R.C(MD)No.668 of 2011, this Court has directed to club both the cases, frame charges and conduct the trial. But however the Court below has passed the impugned order and thereby directed the de facto complainant to produce witnesses for the purpose of framing charges in Calendar case No.135 of 2010. The impugned order passed by the Court below is nothing, but an interlocutory.

5.The provision of Section 397(2) of the Code of Criminal Procedure, 1973 says that no revision shall lie against an interim order.

6.Considering the nature of the order passed by the Court below, this Court is of the view that the present Criminal Revision Case is not legally maintainable. However since this Court has passed a specific order in Crl.R.C(MD)No.668 of 2011 so as to club both the cases, the Court below can be directed to follow the order passed in Crl.R.C(MD)No.668 of 2011 strictly. Further at the time of taking private complaint on file in Calendar Case No.135 of 2010, on the side of the complainant necessary evidence might have been adduced by way of examining witnesses and therefore production of further witnesses is not at all necessary. With the above observation, this Criminal Revision Case is liable to be dismissed.

<https://hcservices.ecourts.gov.in/hcservices>, this Criminal Revision Case deserves dismissal and accordingly is dismissed. However the Judicial Magistrate, Aruppukottai is strictly directed to adhere the direction given in



Cr1.R.C(MD)No.668 of 2011 and proceed further. Consequently, connected Miscellaneous Petition is dismissed.

Sd/-
Assistant Registrar(C.O)

/True Copy/

Sub-Assistant Registrar

To

1.The Judicial Magistrate,
Aruppukottai

2.Do through the Chief Judicial Magistrate,
Virudhunagar at Srivilliputhur

+One cc to Mr.T.K.Gopalan, Advocate, SR.No.48193

+One cc to Mr.S.Deenadayalan, Advocate, SR.No.48281

smn

RL/5 c- 9/10/2013

ORDER MADE IN
Cr1.R.C(MD)No.242 of 2013
and
M.P(MD)No.1 of 2013

30.09.2013