

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29/4/2016

C O R A M

THE HONOURABLE MR. JUSTICE M.VENUGOPAL

Criminal Revision Case No.421 of 2016

K.Reddyvaraprasad ...Petitioner

Vs

1. K.R.Shanmugam
2. S. Balaji
3. Praveen
4. The State
rep. By The Inspector of Police
Maharajakadai Police Station
Krishnagiri. ...Respondents

Prayer: Revision filed under Sections 397, 401 of the Code of Criminal Procedure to set aside the order in CrI.M.P.No.2342 of 2015 dated 3/12/2015 on the file of the Honourable Principal Session Court, Krishnagiri, in respect of the observation relating to the order in I.A.No.762 of 2015 dated 27/11/2015 on the file of the Court of District Munsif Court, Krishnagiri.

For Petitioner ... Mr.B.Saravanan

For Respondent ... Mr.V.Nicholas
N.E.A.Dinesh
for R.R.1 to 3.

Mr.V.Arul
Government Advocate
(Criminal Side)
for R.4.

O R D E R

The Revision Petitioner/Intervening Petitioner/Defacto Complainant has focused the instant Criminal Revision Petition before this Court, as an 'aggrieved person', as against the Order, dated 3/12/2015 in CrI.M.P.No.2342 of 2015, passed by the learned Principal Sessions Judge, Krishnagiri, pertaining to the observation made in I.A.No.762 of 2015, dated 27/11/2015, on

the file of the learned District Munsif, Krishnagiri.

2. Heard the Learned Counsel for the Revision Petitioner and the learned Counsel appearing for the Respondents 1 to 3 and the learned Government Advocate (Criminal Side) for the Fourth Respondent.

3. The Learned Counsel appearing for the Petitioner strenuously contends that the learned Principal Sessions Judge, Krishnagiri, at the time of passing the order, dated 3/12/2015, in CrI.M.P.2342 of 2015, had inter alia, observed the following:-

"The orders passed by the Munsiff Court is produced and one of the order reveals that injunction is granted not to restrain the defacto complainant in inspecting stocks and accounts in the suit property and another order reveals that the petition is dismissed and only observation is given to furnish stock and ledger book within a week and the second order is not a final order and that order shows that it is not a correct order and once Munsiff has come to the conclusion that petition is to be dismissed he cannot give observation regarding that and if the observation are not valid no action can be initiated against that order and considering that Article 65 of Memorandum of Company it clearly reveals that no share holder or no person except the Director can question the activity of Company or inspect the proeprty without permission of General Body and considering that the offence under Section 379 not made out and the first petitioner being the Director and 2, 3 being share holders and they cannot steel their own property and offence under Section 379 IPC is not attracted and offence under Sections 341, 506 (ii) IPC are attracted as per FIR and alleged offence under Section 506 (ii) IPC is only non-bailable and there is no injury and no weapon is used, this Court is inclined to grant anticipatory bail."

and resultantly allowed the petition.

4. It is the primordial submission of the learned Counsel

appearing for the Revision Petitioner that the learned Principal Sessions Judge, Krishnagiri, while passing the impugned order, in Crl.M.P.No.2342 of 2015, dated 3/12/2015, cannot make observations relating to the order in I.A.No.762 of 2015 in O.S.No.158 of 2015, on the file of the learned District Munsif, Krishnagiri dated 27/11/2015 and by virtue of the said observation, the Revision Petitioner is very much aggrieved over the same.

5. The Learned Counsel for the Revision Petitioner projects an argument that the impugned order of the learned Principal Sessions Judge, Krishnagiri, in Crl.M.P.No.2342 of 2015, dated 3/12/2015, pertaining to the observations of certain Civil Court proceedings in law amounts to interfering with the jurisdiction of the Civil Court and therefore, the same is clearly unsustainable in the eye of Law and as such, the same is liable to be set aside, to prevent an aberration of Justice and to promote substantial cause of Justice.

6. At this stage, this Court has perused the impugned order dated 3/12/2015 in Crl.M.P.No.2342 of 2015 passed by the learned Principal Sessions Judge, Krishnagiri, and is of the considered view that the learned Principal Sessions Judge, Krishnagiri had referred to the orders passed by the Munsif Court, etc. In fact, the learned Principal Sessions Judge, while passing the impugned order had proceeded to state the second order is not a final order and that order shows that it is not a correct order and once Munsif has come to the conclusion that the petition is to be dismissed, he cannot give observation regarding that etc.,"

7. In this regard, this Court finds enough force in the argument advanced on behalf of the Petitioner that the learned Principal Sessions Judge, Krishnagiri cannot make any observation one way or other touching upon the orders passed by the Court and in fact, he cannot exceed his jurisdiction in this regard.

8. It is to be noted that in stricture by a Court of Law in a Judgment against the concerned Person / an Authority must fulfill the three acid tests:-

(i) An individual or Authority whose conduct is in question is before the Court or has an opportunity of defending himself of explaining;

(ii) There is evidence on record concerning on that conduct justifying the remarks;

(iii) It is essential / necessary for the decision of the case as an integral part there on to animadvert on that conduct.

9. Further it is to be remembered that an uncalled for,

undeserving, unjustified or unnecessarily disparaging derogatory remarks ought to be avoided by the Judges manning the Courts, in the considered opinion of this Court. To put it succinctly no adverse comments / remarks can be passed against the concerned person or authority whose conduct comes into consideration without adhering to the principles of natural justice, as opined by this Court.

10. It is to be pointed out that the Court shall not make disparaging comments and remarks in the Order / Judgment and they are to be expunged. Also that the observations not forming integral part of an Order / Judgment and also disparaging remarks can be expunged, if they are un-necessary and uncalled for.

11. On a careful consideration of the contentions advanced on behalf of the Revision Petitioner, as stated supra, this Court without delving deep into the matter and not expressing any opinion, relating to the merits of the matter at this stage, simpliciter is of the view that the said observation relating to Munsif Court orders are not within the ambit and purview of the learned Principal Sessions Judge, Krishnagiri while dealing with an anticipatory bail as such, this Court, prima facie satisfied that the said observations relating to the Munsif Court order etc., are not warranted at the time of dealing with Anticipatory Bail Petition. Therefore, this Court in the interest of Justice, Fair Play, Equity, Good Conscience and even as a matter of prudence, grants permission to the Petitioner to approach the Learned District Munsif, Krishnagiri, by filing necessary Petition to erase/expunge the observation (specifically indicating the objectionable part / portion) so made by him in his order, within a period of three days, from the date of receipt of a copy of this order. On such an application being filed, the Learned District Munsif, Krishnagiri, is to take up the said Petition/Application, within a period of three days thereafter, and to dispose of the same by hearing the arguments advanced on behalf of the Petitioner and the concerned if any. It is needless for this Court to make a significant mention that the Learned Principal Sessions Judge, Krishnagiri, shall pass orders in a dispassionate manner and that too with an open mind well within the time specified by this Court, keeping in mind the well established legal principles governing the grant of Anticipatory bail.

With the above observation and direction, this Criminal Revision Petition is disposed of. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

mvs.

To

1. The Principal Session Judge, Krishnagiri
2. The District Munsif, Krishnagiri.
3. The Inspector of Police
Maharajakadai Police Station
Krishnagiri.

+1cc to Mr.V. Nicholas, Advocate, S.R.No.27862
+1cc to Mr.T. Sundaravadanam, Advocate, S.R.No.

AD(CO)
EU(03/05/2016)

Criminal Revision Case No.
421 of 2016

WEB COPY