

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2015

CORAM

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

Crl.O.P.No.19278 of 2011

M.P.Nos.1 and 2 of 2011

1. Mr.Anandaraman

2. Mr.Rajesh

... Petitioners

Vs

The State,

rep., by the Inspector of Police,
Chithode Police Station,
Erode District.

... Respondent

Criminal Original Petition filed under Section 482 Cr.P.C., seeking to call for the records in connection in C.C.No.143 of 1999, on the file of the learned Judicial Magistrate No.III, Erode and quash the same.

For Petitioner : Mr.M.R.Radhakrishnan

For 1st Respondent : Mr.C.Emalias,
Government Advocate (Crl.Side)

For 2nd Respondent : Mr.N.Manokaran
Defacto Complainant.

O R D E R

This petition has been filed to quash the final report in C.C.No.143 of 1999, on the file of the learned Judicial Magistrate No.III, Erode.

2. On a complaint, lodged by one Mr.Kumarasamy, a case in Cr.No.15 of 1998, has been registered by Thalavadi Police Station, for the offences, under Sections 420, 464, 465, 468 and 471 IPC., and thereafter, the said case was transferred to the respondent-Police and re-registered as Cr.No.170 of 1999. The respondent-Police have completed the investigation and filed a final report in C.C.No.143 of 1999, before the learned Judicial Magistrate No.III, Erode, against four persons, including the petitioners herein. Thereafter, Accused No.3 died. It appears that the defacto complainant had filed an application in C.M.P.No.130 of 2003, under Section 319 Cr.P.C., for inclusion of few other persons, as accused, which came to be

dismissed by the trial Court on 22.03.2004. Ultimately, the trial saw the light of the day, when PW.1, was examined in chief and on the subsequent dates also.

3. Again, the defacto complainant has filed C.M.P.No.6412 of 2006 in C.C.No.143 of 1999, under Section 173(8) Cr.P.C., for further investigation and it appears that the learned Judicial Magistrate No.III, Erode, has ordered re-investigation of the case on 02.11.2006. At this juncture, it may be profitable to quote the following verbatim extracts of the counter affidavit,

"8. It is submitted that on 26.11.2010, R.Muthusamy, the then Inspector of Police, took up the case for re-investigation, based on the trial Court order and as per the directions from their Higher officials. After careful scrutiny of perusal of available records, re-examined the defacto complainant on 26.11.2010 and recorded his statement. The statement reveals that the complainant contended that apart from A-1 to A-4, other 7 accused were colluded with them and committed the said offence.

9. It is submitted that the then Inspector of Police given requisition to concerned authorities and collected various vital documents and the same have to be verified at various levels. Further, the then Inspector of Police formed special team in order to secure the 7 accused but all of them were absconding and all of them resided in Samaj Nagar Taluk, Karnataka, but present whereabouts of them is not known.

10. It is submitted that the then Inspector of Police had issued so many summons to 6 witnesses and they have not appeared for enquiry, hence given requisition to issue NBW to the said 6 witnesses, before the Judicial Magistrate No.III, Erode, accordingly NBW was issued against the 6 witnesses on 30.12.2013 and the said NBW is pending for execution. The case is still under re-investigation stage."

4. It is also seen that on the petition in Crl.O.P.No.27095 of 2010, filed by the defacto complainant, before this Court, a learned single Judge, by an order, dated 02.12.2010, has directed the respondent-Police to complete the re-investigation and file a final report, before the learned Judicial Magistrate No.II, Erode, within a period of two months. From 2010 to 2015, nothing seems to have happened and the respondent-Police is groping in the dark, but the petitioners are growing older and older.

5. Hence, this Court, to serve the interest of justice, directs the respondent-Police, to stop further investigation in the case and the learned Judicial Magistrate No.III, Erode, is directed to proceed with the trial in C.C.No.143 of 1999 and complete the same, within a period of six months, from the date of receipt of a copy of this order.

6. In the result, this Criminal Original Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are also closed.

skm

s/d-
Assistant Registrar(CS-V)

True Copy

Sub-Assistant Registrar

To

1. The Inspector of Police,
Chithode Police Station,
Erode District.
 2. The Judicial Magistrate No.III,
Erode.
 3. The Public Prosecutor,
High Court, Madras.
- + 1 cc to Mr.N.Manokaran, Advocate SR 35090

vsn(co)
prk7/8

सत्यमेव जयते

Cr1.O.P.No.19278 of 2011

WEB COPY