

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.01.2015

CORAM:

THE HONOURABLE MR.JUSTICE R.S.RAMANATHAN

Cr1.O.P. No. 21810 of 2012

E.Prem Kumar

... Petitioner/
Defacto Complainant

vs.

State represented by
the Inspector of Police,
CBCID - Nilgiris,
Nilgiris District.
(Crime No.5 of 2010)

... Respondent/ Complainant

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to direct the respondent or any other officer superior in rank to further investigate into the case in Crime No.5 of 2010 on the file of the respondent police, presently pending enquiry in C.C.No.209 of 2012 on the file of the Chief Judicial Magistrate-Coimbatore.

For Petitioner : Mr.R.John Sathyan

For Respondent : Mr.M.Maharaja,
Learned Addl.Public Prosecutor

O R D E R

This petition is filed seeking for a direction directing the superior police officials to conduct further investigation in respect of Crime No.5 of 2010 on the file of the respondent police now culminated into C.C.No.209 of 2012 on the file of the Chief Judicial Magistrate, Coimbatore.

2. It is submitted by the learned counsel for the petitioner that initially, the case was registered against 26 persons and after investigation, the police filed charge sheet against 7 persons in C.C.No.209 of 2012 and while filing final report only against 7 persons, no notice was given to the defacto complainant as per the judgment of the Hon'ble Supreme Court in Bagwansingh Vs. State of Rajasthan reported in AIR 1976 SC 985. He therefore, submitted that the charge sheet which was taken

cognizance in C.C.No.209 of 2012 has to be quashed and further investigation may be ordered.

3. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent.

4. It is seen from the records that, by order dated 5.12.2014, this Court directed the Chief Judicial Magistrate, Coimbatore, to submit a report as to whether notice was given to the defacto complainant when the charge sheet was filed against 7 persons only when the complaint was given against 26 persons. The learned Chief Judicial Magistrate submitted its report stating that no notice was given.

5. As the petitioner was not given notice, in my opinion, this petition can be disposed of by giving liberty to the petitioner for approaching the learned Chief Judicial Magistrate, Coimbatore, by filing a Protest Application. Hence, this petition is disposed of by giving liberty to the petitioner to file the Protest Application before the learned Chief Judicial Magistrate, Coimbatore, for taking cognizance of the case only against 7 persons and if such Protest Application is filed within a period of four weeks from the date of receipt of a copy of this order, the learned Chief Judicial Magistrate, Coimbatore, is directed to consider the same and pass orders in accordance with law.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

asvm

To

1.The Chief Judicial Magistrate,
Coimbatore.

2.The Inspector of Police,
CBCID - Nilgiris,
Nilgiris District.
(Crime No.5 of 2010)

3.The Public Prosecutor,
Madras High Court,
Chennai.

CRL.O.P. No.21810 of 2012

SR (CO)
kk 17/2



WEB COPY