



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 08.07.2015

CORAM:
THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

Cr1.R.C.(MD)No.197 of 2015
and
M.P.(MD)No.1 of 2015

Veerammal : Petitioner/Petitioner/
Defacto Complainant

Vs.

State represented by,
The Sub Inspector of Police,
Mimisal Police Station,
Pudukkottai District.
(Crime No.21 of 2014)

: Respondent/Complainant

PRAYER: Revision is filed under Section 397 and 401 of the Code of Criminal Procedure against the order dated 26.03.2015, passed by the learned Judicial Magistrate, Aranthangi, in Cr.M.P.NO.418 of 2015, in S.T.C.No.828 of 2014, by dismissing the petition filed under Section 173(8) Cr.P.C.

For Petitioner : Mr.M.Karunanithi

For Respondent : Mr.P.Kannithevan
Government Advocate (Cr1.Side)

ORDER

The petitioner is the defacto complainant in S.T.C.No.828 of 2014, on the file of the learned Judicial Magistrate, Aranthangi. On the complaint made by the petitioner, this case in Cr.No.21 of 2014 was registered for the offences under Sections 447, 294(b), 323 and 506(i) I.P.C., on the file of the respondent police, as against the accused by name Udayam Shanmugam, S/o Subbiah and Saran, S/o Udayam Shanmugam. On completing the investigation, the respondent has filed a final report only against one accused, namely Saran, S/o Udayam Shanmugam. When the matter was under consideration for taking cognizance, the petitioner filed Cr.M.P.No.418 of 2015, seeking direction for further investigation. That petition was dismissed by the lower Court, by order dated 26.03.2015. Challenging the same, the petitioner is before this Court with this petition.

<https://hcservices.courts.gov.in/hcservices>
I heard the learned Counsel for the petitioner and the learned Government Advocate (Cr1.Side) appearing for the respondent State and also perused the records carefully.



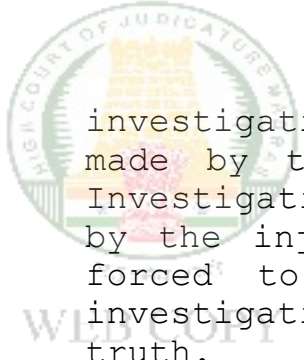
3.The learned Counsel for the petitioner would submit that even according to the materials collected during the investigation, though the witnesses namely the petitioner and her husband, in their statement, have categorically stated that both the accused namely Udayam Shanmugam and Saran were involved in the occurrence and they committed the crime, Mr.Udayam Shanmugam has been omitted wantonly. The learned Counsel would further point out that in the counter affidavit filed before the lower Court, the respondent has stated that not only on the basis of the investigation done, but on the basis of the materials collected during the secret investigation, it was found that the first accused Mr.Udayam Shanmugam was not involved and therefore, he was omitted in the final report. The learned Counsel would further submit that such secret investigation said to have been conducted by the respondent has no sanction of law. Therefore, according to him, the lower Court ought to have ordered for further investigation.

4.Since in the counter affidavit filed before the lower Court, it was mentioned that the secret investigation was done, during which the materials were collected by the Investigating Officer, in order to find out the correctness of the same, the learned Assistant Public Prosecutor, in charge of the case before the lower Court, who filed the objections before the lower Court, was summoned. Today, she has appeared before this Court. She would submit that the said averment in the counter affidavit that in the secret investigation done, the involvement of Mr.Udayam Shanmugam was found to be false is an incorrect statement. It was made out of inadvertence only. Considering the fact that the learned Assistant Public Prosecutor is a new entrant to the profession, I do not give much weightage for the above inadvertent and incorrect statement made in the objection filed by her before the lower Court. Thus it is obvious that no secret investigation was done and the final report filed only on the basis of the investigation done, as required under Code of Criminal Procedure.

5.The learned Government Advocate (Crl.Side) would submit that during the investigation, though the petitioner and her husband have implicated Mr.Udayam Shanmugam also as one of the assailants, all the other eye-witnesses, who were examined, have categorically stated that Mr.Saran alone committed the crime and Mr.Udayam Shanmugam was not at all present. Therefore, according to him, his name was omitted rightly and therefore, no further investigation is required.

6.I have considered the above submissions.

<https://hcservices.ecourts.gov.in/hcservices/> 7.Because, two people have implicated Mr.Udayam Shanmugam, the Investigating Officer is not bound to go by the same and to file a final report against him also. The purpose of



investigation is to find out the veracity of the said statements made by the injured and the other affected parties. If the Investigating Officer is forced to go only by the statements made by the injured and the other affected parties, then he will be forced to act in a mechanical basis, without doing proper investigation. The purpose of investigation is to find out the truth. In this case, according to the learned Government Advocate, though the petitioner and her husband have implicated Mr.Udayam Shanmugam, a thorough investigation has revealed that the said allegation is not correct and that Mr.Udayam Shanmugam was not involved. Therefore, in my considered view, there is nothing wrong in accepting the final report by the learned Judicial Magistrate and rejecting the request for further investigation. If the petitioner is aggrieved, she can work out her remedy in any other manner known to law.

8.In the result, this Criminal Revision Case is dismissed. Consequently, the connected Miscellaneous Petition is also dismissed.

Sd/
ASSISTANT REGISTRAR (RTI)

/TRUE COPY/

SUB ASSISTANT REGISTRAR

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To

1. The Judicial Magistrate Court, Aranthangi
2. The Sub Inspector of Police,
Mimisal Police Station,
Pudukkottai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC to Mr. D. Rameshkumar, ADV SR.No.37397

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