

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.07.2016

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THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.11028 of 2016
and CRL.M.P.No.5711 of 2016

M.Mahalingam

.. Petitioner

Vs

State rep by
The Inspector of Police,
Cyber Crime Cell,
Coimbatore,
Coimbatore District.

... Respondent

Criminal Original Petition filed under Section 482 Cr.P.C., to direct the Inspector of Police, Cyber Crime Cell, Coimbatore, the respondent herein to reinvestigate the matter and file supplementary/an additional report u/s.178(3) of the Cr.PC in so far as the omission of Mr.K.Batrappan, who was shown as A2 in Cr.No.12 of 2014 on the file of the respondent, before the Judicial Magistrate Court VII, Coimbatore in CC No.14 of 2015, is concerned within a short date that may be fixed by this Honourable Court and thereafter proceed with the trial.

For Petitioner : Mr.K.Rajkumar

For Respondent : Mr.C.Emalias, APP

ORDER

This petition has been filed to direct the respondent to reinvestigate the matter and file supplementary/an additional report u/s.178(3) of the Cr.PC in so far as the omission of Mr.K.Batrappan/A2 in Cr.No.12 of 2014 on the file of the respondent, before the Judicial Magistrate Court VII, Coimbatore in C.C.No.14 of 2015 within a stipulated time fixed by this Hon'ble Court.

2. Heard the learned counsel for the petitioner; learned Additional Public Prosecutor appearing for the respondent and perused the materials placed on record.

3. On the complaint lodged by the petitioner, the respondent Police registered a case in Crime No.12 of 2014 against four persons, after completing investigation, the Police filed final report in C.C.No.14 of 2015 before the Judicial Magistrate-VII, Coimbatore against Ramesh/A1, Raman/A2 and Sakthivel/A3 and they have left out the name of Bathrappan and Kavi Bharathi. When a final report is filed leaving out certain persons named in the FIR, it is incumbent on the trial Court to inform the de facto complainant, so that the de facto complainant gets an opportunity to file protest application. Apparently, this has not been done in this case. The trial Court has taken cognizance of the offence disclosed in the final report and issued process to the three accused. Charges were also framed against three accused and three witnesses have been examined. The de facto complainant filed the present petition on 18.05.2016 praying for reinvestigation, on the ground that the respondent Police have not properly conducted the investigation, inasmuch as they have left out Bathrappan and Kavi Bharathi.

4. The Investigating Officer has filed a Status Report, wherein, in paragraph No.8, it is stated as follows :

"8. It is submitted that while gone through the relevant documents, the investigation further reveals that on 01.06.2013 itself the said Tmt.Kavibharathi got transferred to Coimbatore District further on the alleged date of occurrence, the said Batrappan was on casual leave on 14.08.2013, 16.08.2013 and thereafter went for camp duty right from 19.08.2013 to 22.08.2013, hence, the then Inspector of Police came to a conclusion and deleted the accused Tmt.Kavibharathi and Tr.Batrappan from this case. Based on the above, on 31.08.2014, Tr.Muthumalai, the then Inspector of Police laid the charge sheet and altered the section into 120[b], 419 IPC & 66, 66A, 66D of IT Act against the accused Ramesh[A1], Raman[A2] and Sakthivel [A3] and submitted the same before the Judicial Magistrate No.VIII, Coimbatore. The said court has taken it on file vide C.C.No.14 of 2015 dated 07.01.2015. Now, the case is pending trial and stands posted for next hearing on 06.06.2016 for examination of PW1 to PW3."

5. Mr.Rajkumar, learned counsel contended that Bathrappan and Raman had conspired to do the offence and in order to create alibi, Bathrappan had gone on casual leave, so that he does not fall within the zone of suspicion.

6. In the considered opinion of this Court, much water

has flown under the bridge by now and therefore, if further investigation is ordered, it will enure the benefit of the accused. However, to serve the best interest of justice, a direction is given to the trial Court to invoke Section 319 Cr.P.C, if credible evidence surfaces during trial to implicate Bathrappan and Kavi Bharathi.

With these observation, this petition is closed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate-VII,
Coimbatore.

2.The Inspector of Police,
Cyber Crime Cell,
Coimbatore,
Coimbatore District.

3.The Public Prosecutor,
High Court, Madras.

1 cc to Mr.K.Rajkumar, Advocate, sr.41381

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kra 01.08.2016

CRL.OP.No.11028 of 2016

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