

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.07.2016

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Cr1.OP.No.15229 of 2016

and Cr1.M.P.No.7523 of 2016

1.P.Jayaraman
2.J.Saraswathi
3.J.Yogarajan
4.Manimegalai
5.Dinesh

... Petitioners/Accused 1 to 5

Vs

State by
Inspector of Police,
Rasipuram Police Station,
Namakkal District. ... Respondent/Complainant

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records in C.C.No.119 of 2014 on the file of J.M.III, Rasipuram, Namakkal District and quash the same as an abuse of process of law.

For Petitioners :Mr.Kalyanasundaram,
Senior Counsel
for Mr.V.Srinivasan

For Respondent :Mr.C.Emalias, APP

O R D E R

This petition has been filed to quash the proceedings in C.C.No.119 of 2014 on the file of the Judicial Magistrate Court-III, Rasipuram, Namakkal District.

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

3. It is seen that on the complaint given by one Chitra, the respondent Police registered a case in Crime No.463 of 2014 and similarly, on the complaint given by one Jayaraman, a case in Crime No.464 of 2014 was registered and after completing the investigation, the Police have closed Crime No.464 of 2014 as mistake of fact by filing a closure report

before the learned Judicial Magistrate-III, Rasipuram. As regards Crime No.463 of 2014, a final report has been filed in C.C.No.119 of 2015 against Jayaraman and four others for offences under Section 147, 294[b], 323, 354 and 506[i] IPC. Challenging which, petitioners are before this Court for quashing the prosecution on the ground that the entire prosecution is malafide.

4. Mr.Kalyanasundaram, learned Senior Counsel appearing for the petitioners submitted that the Police ought not to have closed the FIR in Crime No.464 of 2014 and should have accepted the version of Jayaraman. He further submitted that the Police having closed Crime No.464 of 2014, they ought not to have file final report on the complaint given by Chitra in Crime No.463 of 2014.

5. This Court is unable to countenance his submission for the simple reason that, when two version of an incident is given by two parties, it is open to the Police to register FIR and after completing the investigation, if one version is found to be untrue, the Police are required to file closure report and the complainant in that case, can file a protest application as held by the Hon'ble Supreme Court in Vinay Tyagi Vs Irshad Ali 2013 [5] SCC 762. As regards C.C.No.119 of 2015, on reading the final report and 161 statements of the witnesses, it is seen that the de facto complainant was injured in the incident as could be seen from the AR copy. Thus, when there are prima facie materials for the trial to proceed in C.C.No.119 of 2015, the same cannot be quashed at the threshold.

In the result, this petition is devoid of merits and stands dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS III)

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Sub Assistant Registrar

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To

1. The Judicial Magistrate-III,
Rasipuram.

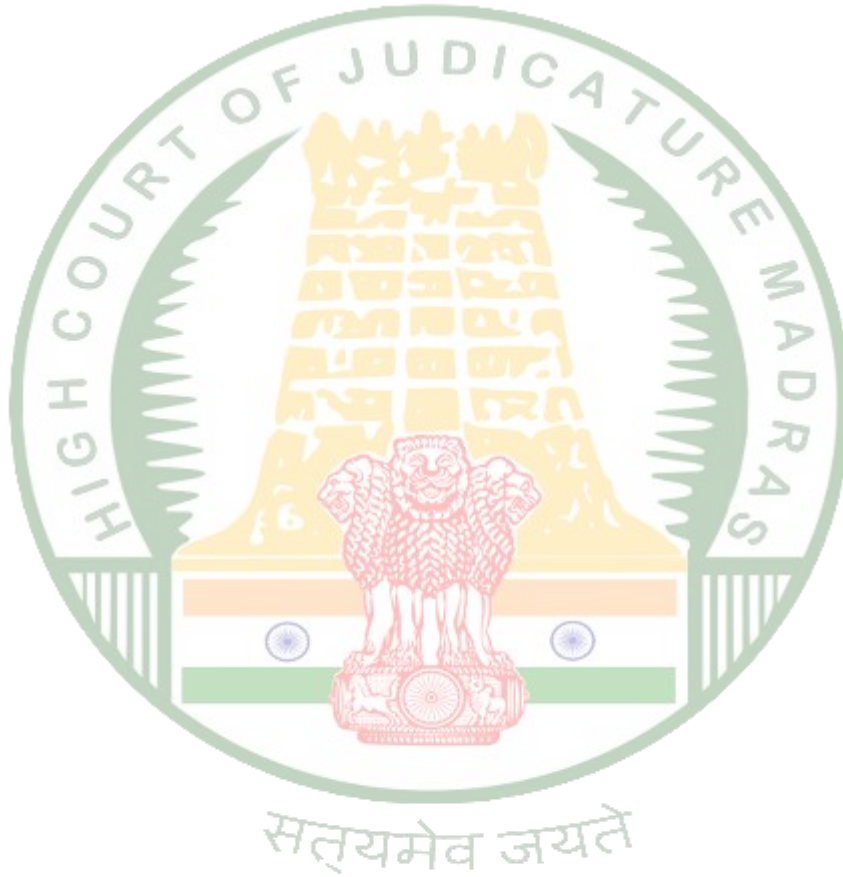
2. The Inspector of Police,
Rasipuram Police Station,
Namakkal District.

3.The Public Prosecutor,
High Court, Chennai.

1 cc to Mr.V.Srinivasan, Advocate, sr.42668

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