

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2016

CORAM

THE HONOURABLE MR. JUSTICE C.T.SELVAM

Crl.R.C.No.105 of 2016

and

Crl.M.P.No.744 of 2016

V.Thangavel

S/o.Varadhappan

... Petitioner/Defacto Complainant/Petitioner

vs

State rep. by

Inspector of Police,

Erode Taluk Police Station,

Erode, Erode District.

... Respondent/Complainant/Respondent

Criminal Revision filed under Sections 397 and 401 Cr.P.C., praying to call for the records relating to the order dated 05.11.2015 passed in Crl.M.P.No.44 in 2015 in S.C.No.96/2015 on the file of learned II Additional District Judge, Erode.

For Petitioner : Mr.T.Sundaravadanam

For Respondent : Mr.C.Iyyapparaj,

Government Advocate [Crl.side]

O R D E R

This revision arises against orders of learned II Additional District Judge, Erode, passed in Crl.M.P.No.44 of 2015 in S.C.No.96 of 2015 on 05.11.2015.

2.The petitioner addressed a communication to the II Additional District and Sessions Judge, Erode, before whom case in S.C.No.96 of 2015 was pending trial. Such case arises out of charge sheet filed upon completion of investigation in Crime No.692 of 2012 on the file of the respondent. The petitioner is the first informant in the case which relates to the death of his son. The Charge Sheet informs commission of offences under Section 302, 201 and 380 I.P.C. against first accused, 302 I.P.C. against second accused and 302 r/w 34 and 380 I.P.C. against third accused. Under communication dated 25.09.2015, petitioner informed that no proper investigation has been done in the case, that he had not been examined by the police and that he had recently come to know that he was to be examined as

P.W.1 in the case. Treating such letter as a Criminal Miscellaneous Petition, seeking further investigation, the Court below passed orders thereon in CrI.M.P.No.44 of 2015 on 05.11.2015.

3.In passing an order of dismissal, the Court below has reasoned that the records revealed examination of several witnesses including the petitioner and that it reasonably could be expected that the petitioner/defacto complainant and his family members, who would have been present at the burial ground on cremation of the deceased were examined. Noting that it was the petitioner, who has received the body of the deceased after postmortem, that petition has been filed in 2015, while the occurrence has been taken place in 2012 and that the petitioner had filed a petition C.M.P.No.720 of 2013 on 06.02.2013, before Judicial Magistrate, seeking interim custody of the jewels seized in the course of investigation and on the basis of confession of the accused and the same was indicative of the petitioner being aware of the F.I.R. pending before the Court of competent Judicial Magistrate, the Court below held that the petitioner had been keeping a close watch on the proceedings (he having engaged a counsel for return of jewels) and that his contention of not knowing of the investigation was false. The Court below saw the petition as an attempt of the petitioner to make unavailable jewels recovered in the case from the accused through protraction of proceedings. This Court find no error in the order of the Court below.

4.This Criminal Revision is dismissed. Consequently, connected Miscellaneous Petition is closed.
gpa

s/d-

Assistant Registrar(CS-VII)

True Copy

Sub-Assistant Registrar

To

1.The II Additional District Judge,
Erode.

2.The Public Prosecutor,
High Court, Madras.

+ 1 cc to Mr.T.Sundaravadanam, Advocate SR 6287

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