

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2016

CORAM

THE HONOURABLE MR. JUSTICE G.CHOCKALINGAM

Cr1.R.C.No.779 of 2016
and
Cr1.MP.No.5815 of 2016

R.Marappan

... Petitioner

Vs.

State rep by the
The Inspector of Police,
District Crime Branch,
Namakkal District,
Crime No.9 of 2011.

.... Respondent

Prayer :- Criminal Revision Petition filed under Section 397 r/w 401 of Cr.P.C. against the order dated 05.04.2016 made in C.M.P.No.4195 of 2015 in CC.No.247 of 2015 on the file of the Judicial Magistrate, Thiruchengode.

For Petitioner : M/s.A.Thiyagarajan

For Respondent : Mr.M.Mohamed Riyaz,
Government Advocate (Cr1.side)

ORDER

The criminal revision petition is directed against the order passed by the learned Judicial Magistrate, Tiruchengode in C.M.P.No.4195 of 2015 in CC.No.247 of 2015 dated 05.04.2016.

2.The learned counsel for the petitioner submitted that while conducting enquiry, investigating officer has omitted some portion of the complaint given by the petitioner and filed final report. Hence, the petitioner filed the present revision petition before this Court.

3.The learned counsel for the petitioner contended that the learned Magistrate without considering the above aspects erroneously dismissed the application and prayed this Court to remand back the matter for further investigation, which is permissible under law.

4.The learned Government Advocate contended that the principles of law settled by the Hon'ble Supreme Court also permits the complainant to file an application for further investigation.

5.The learned counsel for the petitioner draws the attention of this Court by relying upon the judgments of the Hon'ble Supreme Court reported in (i)(2013) 5 SCC 762 - Vinay Tyagi V. Irshad Ali @ Deepak and others and (ii)(2015) 8 SCC 774 - Chandra Babu @ Moses V. State through Inspector of Police and others.

6.In the decision reported in (2013) 5 SCC 762 cited supra, wherein in paragraphs 40.2 and 40.3 it is held as follows :-

40.2. A Magistrate has the power to direct "further investigation" after filing of a police report in terms of Section 173(6) of the Code.

40.3. The view expressed in Sub-para 40.2 above is in conformity with the principle of law stated in Bhagwant Singh case by a three judge Bench and thus in conformity with the doctrine of precedent.

7.In view of the above stated legal position of law, the principles are settled by the Hon'ble Supreme Court and the order passed by the Magistrate in C.M.P.No.4195 of 2015 is liable to be set aside and the same is hereby set aside.

8.In the result, the criminal revision petition is allowed. C.M.P.No.4195 of 2015 is remanded back to the file of the learned Judicial Magistrate, Thiruchengode for fresh disposal, on the ground that the Magistrate has the power to direct further investigation after filing of a police report. Consequently, connected miscellaneous petition is closed.

सत्यमेव जयते
Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate,
Thiruchengode.

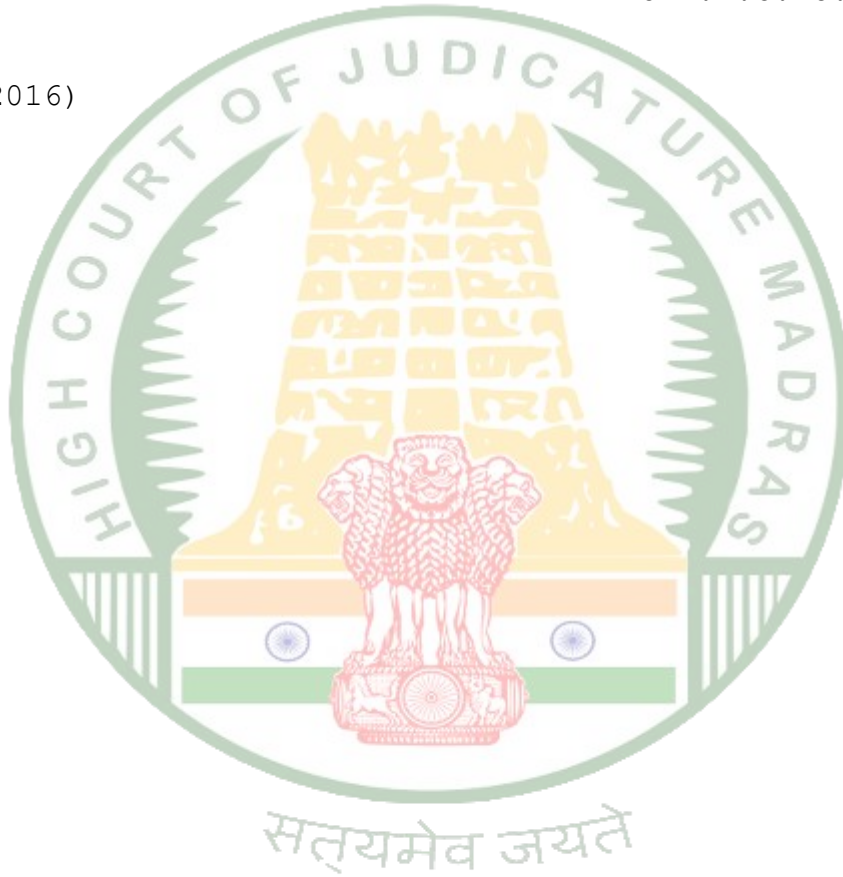
2.The Inspector of Police,
District Crime Branch,
Namakkal District.

3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.A.Thiyagarajan, Advocate, S.R.No.33867

Cr1.R.C.No.779 of 2016

PA(CO)
CA(04/07/2016)



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