

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Crl.O.P.No.7587 of 2015
and
M.P.Nos.1 and 3 of 2015

Vijayan Rajes

... Petitioner

Vs.

1.The Superintendent of Police,
District Crime Branch,
Salem District.

2.The Deputy Superintendent of Police,
District Crime Branch,
Salem.

3.The Inspector of Police,
Yercaud Police Station,
Yercaud.

4.Dr.K.Mohan

... Respondents

(R4 impleaded vide order
dated 26.06.2015 made
in M.P.No.2 of 2015 in
Crl.O.P.No.7587 of 2015)

Criminal Original Petition filed under Section 482
Cr.P.C. to call for the records relating to the order dated
09.03.2015 in C.M.P.No.1353 of 2015 in Crime No.125 of 2010 on
the file of Judicial Magistrate No.5, Salem, set aside the same.

For Petitioner :Mr.S.Kalyanaraman

For Respondents :Mr.C.Emalias,
Addl.Public Prosecutor,
for R.1 to R.3
M/s.I.Abraham, for R4

ORDER

The present criminal original petition has been filed
to call for the records relating to the order dated 9.3.2015

made in C.M.P.No.1353 of 2015 in Crime No.125 of 2010 on the file of the learned Judicial Magistrate No.V, Salem and set aside the same.

2. In the petition, it is averred that on the basis of the complaint given by the fourth respondent, a case was registered as against the petitioner in Crime No.125 of 2010 by the third respondent police. After investigation, the said case was referred as 'mistake of fact'. Hence, the fourth respondent filed a petition before this Court in Crl.O.P.No.11008 of 2013 for transfer of the investigation. This Court, while disposing of the said petition, observed as follows:-

" In the circumstances, the learned Judicial Magistrate No.V, Salem, is directed to take further action on the final report filed by the third respondent, namely, the Inspector of Police, Yercaud Police Station, Salem District, in Crime No.125 of 2010, taking into account that the Protest Petition filed by the de facto complainant and pass orders in accordance with law within one month from the date of receipt of a copy of this order. "

Subsequent to the said order, the second respondent, has taken up re-investigation of the said complaint, even though the third respondent filed final report dropping the proceedings against the petitioner and sent an intimation regarding the same in proceedings dated 10.12.2014 to the learned Judicial Magistrate No.V, Salem. While the matter was under re-investigation, witness summons came to be served on the petitioner as per the orders of the learned Judicial Magistrate No.V, Salem on 15.12.2014 calling him to appear before the Court in connection with the said crime. The said summons was challenged before this Court in Crl.O.P.No.2139 of 2015 and this Court, by an order dated 2.2.2015, directed the learned Magistrate to conduct an enquiry and the petitioner was also directed to appear and give statement. Thereafter, the second respondent filed a requisition memo for issuing summons to the petitioner to appear and furnish specimen signature and writings in English and Tamil purportedly under Section 311-A Cr.P.C. The said memo was treated as petition by the learned Magistrate and the petitioner was called upon to file his objections thereto. Accordingly, objections were filed by the petitioner. However, the learned Magistrate overruled the objections and ordered the petitioner to appear before the Court and furnish specimen signature as per the requisition given by the second respondent. Aggrieved over the said order, the present petition has been filed.

3. Today, when the matter was taken up for consideration, the second respondent filed a counter, in which

in para 11, it has been stated that the then investigation officer had collected the report of the Deputy Director of document Expert dated 8.6.2015, which reveals that " The red enclosed signatures and writings stamped and marked A.1 to A.3, A.4 to A.6 (xerox), A.7, A.8 and Q.1 and Q.2 (xerox) have all been written by one and the same person (accused) ".

4. Learned Additional Public Prosecutor submitted that now the signature of the petitioner is not required by the respondent police.

5. In view of the statement made in the counter affidavit and in view of the submission made by the learned Additional Public Prosecutor, I am of the opinion, there is no need to give any specific direction in this matter.

6. Recording the statement made in para 11 of the counter affidavit filed by the second respondent as well as the submission made by the learned Additional Public Prosecutor, the criminal original petition is closed. Consequently, connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

- 1.The Superintendent of Police,
District Crime Branch, Salem District.
 - 2.The Deputy Superintendent of Police,
District Crime Branch, Salem.
 - 3.The Inspector of Police, Yercaud Police Station,
Yercaud.
 - 4.The Public Prosecutor, High Court, Madras.
 - 5.The Judicial Magistrate, No.V, Salem.
- +1 cc to Mr.I.Abraham, Advocate, S.R.No.2976[5/2/2016]
+1 cc to Mr.S.Kalyanaraman, Advocate Sr 851 (4/2/16)

Cr1.O.P.No.7587 of 2015

sv(CO)
srg(02/02/2016)