

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.09.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP No.20679 of 2016

M.Balakrishnan

..Petitioner/Defacto
Complainant

Vs

State by Inspector of Police,
Palaiyur Police Station,
Nagapattinam District,
Crime No.30 of 2016

.. Respondent/Complainant

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to direct the re-investigation of the case in Crime No.30 of 2006 on the file of the respondent by any other investigating agency of the state particularly CB CID.

For Petitioner : Mr.S.Sadasharam

For Respondent : Mr.C.Emalias,
Addl.Public Prosecutor

O R D E R

This petition has been filed to direct the re-investigation of the case in Crime No.30 of 2006 on the file of the respondent by any other investigating agency of the state particularly CB CID.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the State.

3. On intimation received from the Government Hospital, Nagapattinam, the Inspector of Police, Palaiyur Police Station, went to the hospital and recorded the statement of M.Balakrishnan and based on which, a case in Crime No.30 of 2016 for offence under Sections 147, 148, 294(b), 324, 379 I.P.C., & Section 3(i) of TNPPDL Act, was registered against one Raguvarma and 8 others. It is a specific case of M.Balakrishnan that Raguvarma is the President of the local panchayat and that he

and his henchmen had brutally attacked him and his son and also damaged his son's car.

4. The Police after completing the investigation has filed a final report in P.R.C.No.28 of 2016 before the learned Judicial Magistrate No.2, Mauiladuthurai for offences under Sections 147, 148, 294(b), 324, 379 I.P.C., and Section 3(1) of TNPPDL Act @ 294(b), 323 I.P.C., and 3(1) of TNPPDL Act only against Rajendran s/o, Ramavarma & Ramadoss s/o Govindasamy leaving out 7 others who have been named accused in the F.I.R.

5. When the persons named in the F.I.R., are dropped in the final report, it is the duty of the learned Magistrate to issue notice to the defacto complainant and give him an opportunity, to file a protest petition. In this case, it appears that this has not been done. That apart, the allegations in the F.I.R., shows that Raguvarma, (A.1) is a very powerful and influential person being a President of the Palaiyur Village. However, a higher person, the law is above him.

6. Under such circumstances, this Court gives liberty to the petitioner to file protest petition within a period of two weeks from the date of receipt of a copy of this order and if any such protest petition being filed, the learned learned Judicial Magistrate No.2, Mauiladuthurai shall deal with the case in accordance with law, as per the law laid down by the hon'ble Supreme Court in Vinay Tyagi v. Irshad Ali (2013 (5) SCC 762).

With the above directions, this Criminal Original Petition is disposed of.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. Inspector of Police,
Palaiyur Police Station,
Nagapattinam District,
Crime No.30 of 2016

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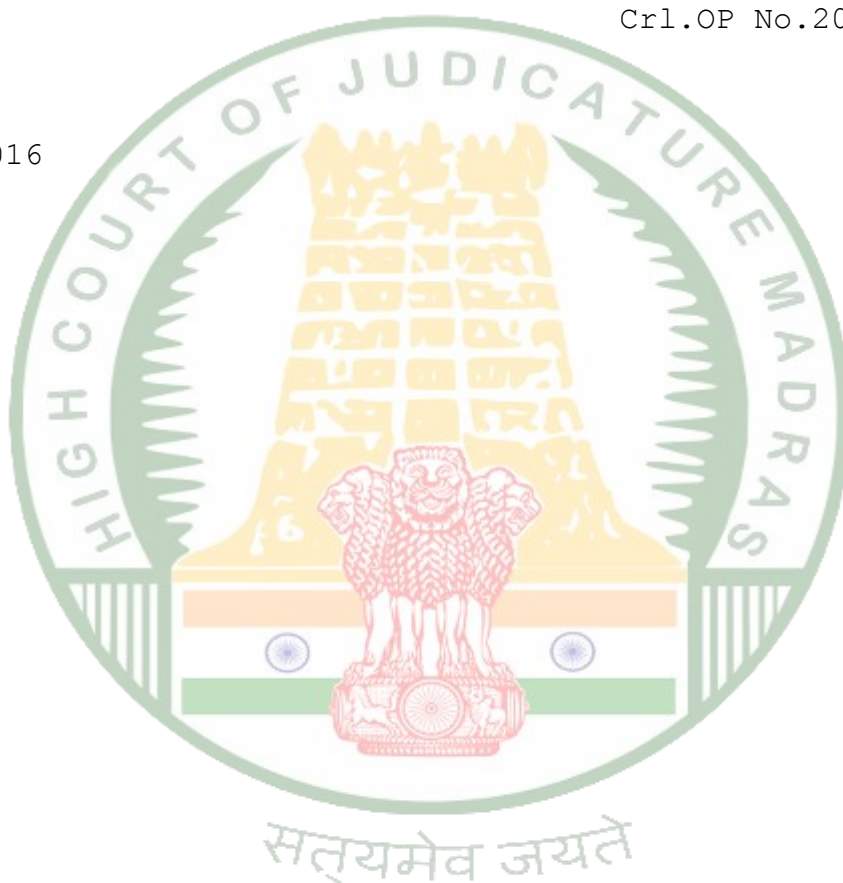
2.The Judicial Magistrate No.2
Mayiladuthurai

3.The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.S.Sadasharam Advocate sr 52432

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