

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 19.09.2016
CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH
CRL.OP.No.21273 of 2016
and
Crl.MP.No.9860 of 2016

1.P.K.Palanisamy
2.Sakunthala ... Petitioners/Accused 1&2

Vs.

- 1.The State of Tamil Nadu,
rep. by the Inspector of Police,
Kannankurichi Police Station,
Salem-636 008. ...R1/Complainant
- 2.Mrs.Deeparani, ...R2/Defacto Complainant
- 3.The Assistant Commissioner of Police,
Central Crime Branch,
Salem. ... Respondent 3/Petitioner

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records pertaining to C.M.P.No.1856 of 2016 in C.C.No.29 of 2014 on the file of the Judicial Magistrate No.4, Salem and set aside the same.

For Petitioners :Mr.K.S.Karthik Raja

For Respondent :Mr.C.Emalias,
Nos.1 & 3 Additional Public Prosecutor

O R D E R

This criminal original petition has been filed to call for the records pertaining to C.M.P.No.1856 of 2016 in C.C.No.29 of 2014 on the file of the Judicial Magistrate Court No.4, Salem and set aside the same.

2. Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor for the respondents 1 & 3.

3. It is seen that these petitioners are facing trial in C.C.No.29 of 2014 before the Judicial Magistrate Court No.IV, Salem, for an offence under Section 420 IPC.

4. The gravamen of the allegation in the complaint is that the petitioners' son K.P.Mohanavelu had died and some insurance amount, which the defacto complainant (Mohanavelu's wife) is supposed to get, has been misappropriated by the petitioners. During the pendency of the trial, the Assistant Commissioner of Police, has sought leave of the Judicial Magistrate Court No.IV, Salem, to conduct re-investigation of

the case. Pursuant to the request of the Assistant Commissioner of Police, for re-investigation, the Magistrate Court No.IV, Salem, by the order impugned, has directed further investigation in terms of Section 173 (8) Cr.P.C., challenging which, the accused are before this Court.

5. Mr.K.S.Karthik Raja, learned counsel appearing for the accused submitted that the order passed by the Judicial Magistrate No.IV, Salem, is not sustainable.

6. In the considered opinion of this Court, the power of the police to conduct further investigation has been prescribed under Section 173 (8) Cr.P.C. It is trite that further investigation can also result in materials being collected in favour of the accused, so that, they may be discharged from the prosecution.

7. In the facts and circumstances of the case, this Court does not find any reason to interfere with the order passed by the trial court inasmuch as though the investigating officer has sought re-investigation, the trial Court has directed to conduct only further investigation. It is open to the Assistant Commissioner of Police to conduct further investigation and file a supplementary final report based on the materials collected.

8. With the above directions, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To

1.The Inspector of Police,
State of Tamil Nadu,
Kannankurichi Police Station,
Salem-636 008.

2.The Assistant Commissioner of Police,
Central Crime Branch,
Salem.

3.The Judicial magistrate No.4,
Salem.

4.The Public Prosecutor,
High Court, Madras.

krd 14/11