

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2016

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.OP.No.25654 of 2010
and MP.No.1 of 2010

R.Thamil Selvam

.. Petitioner

Vs

1.State Represented by
The Inspector of Police,
Thalaignayaru Police Station,
Nagapattinam District.

2.R.Krishnamurthy
(2nd respondent impleaded as
per order of this Court
dated 11/1/11in MP.No.1/11)

.. Respondents

Prayer:Criminal Original Petition filed U/S 482 of Cr.P.C
praying this Honourable Court to call for the records
pertaining to the proceedings in C.C.No.100 of 2009, on the
file of the Judicial Magistrate, Vedaranyam, pursuant to the
Charge Sheet filed in Crime No.376 of 2008, on the file of the
respondent Police and quash the same and pass such further or
other orders as this Honourable Court may deem fit and proper
in the circumstances of the case and thus render justice.

For Petitioner :Ms.Vasavi Sridevi

For Respondents :Mr.C.Emalias [for R1]

Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed to quash the
proceedings in Crime No.376 of 2008 on the file of the
respondent Police, filed into the Court of the Judicial
Magistrate, Vedaranyam.

2. Heard the learned counsel appearing for the petitioner
and the learned Additional Public Prosecutor (Pondy) appearing
for the second respondent.

3. On the complaint lodged by Krishnamoorthy, the respondent Police registered a case in Crime No.376 of 2008 and after completing the investigation, have filed a final report in C.C.No.100 of 2009 before the Judicial Magistrate, Vedaranyam for the offences under Sections 294(b), 323, 342 and 506(ii) IPC against the petitioner and another, challenging which, the petitioner is before this Court.

4. The learned counsel appearing for the second respondent/de facto complainant submitted that the petitioner himself had lodged a complaint against the de facto complainant, in which, a case in Crime No.375 of 2008 was registered, but no action was taken as the de facto complainant in this case is related to a police officer.

5. That apart, the learned counsel for the petitioner submitted that no injury report has been enclosed to show that the de facto complainant sustained injuries.

6. The learned Additional Public Prosecutor refuted the contentions.

7. This Court gave its anxious consideration to the rival submissions. It is seen that the FIR in this case is based on the complaint given by the de facto complainant, which was recorded in the hospital. That apart, the Police have recorded the statement of Dr.Mohammed Rajudeen, District Medical Officer, Nagapattinam District, who has given treatment to the de facto complainant. Thus, in a case of this nature, when there are prima facie materials against the petitioner, the prosecution cannot be quashed. If the petitioner is aggrieved by the failure of the police in not investigating the case in Crime No.375 of 2008, his remedy lies elsewhere.

8. Since there are sufficient materials in the prosecution, this is not a fit case to quash the FIR. The petition is dismissed with liberty to the petitioner to raise all the points before the trial Court. Consequently, connected miscellaneous petition is closed.

The learned Judicial Magistrate, Vedaranyam is directed to complete the trial in C.C.No.100 of 2009 within six months from the date of receipt of a copy of this order, provided there is no other impediment.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To:

1.The Judicial Magistrate,
Vedaranyam.

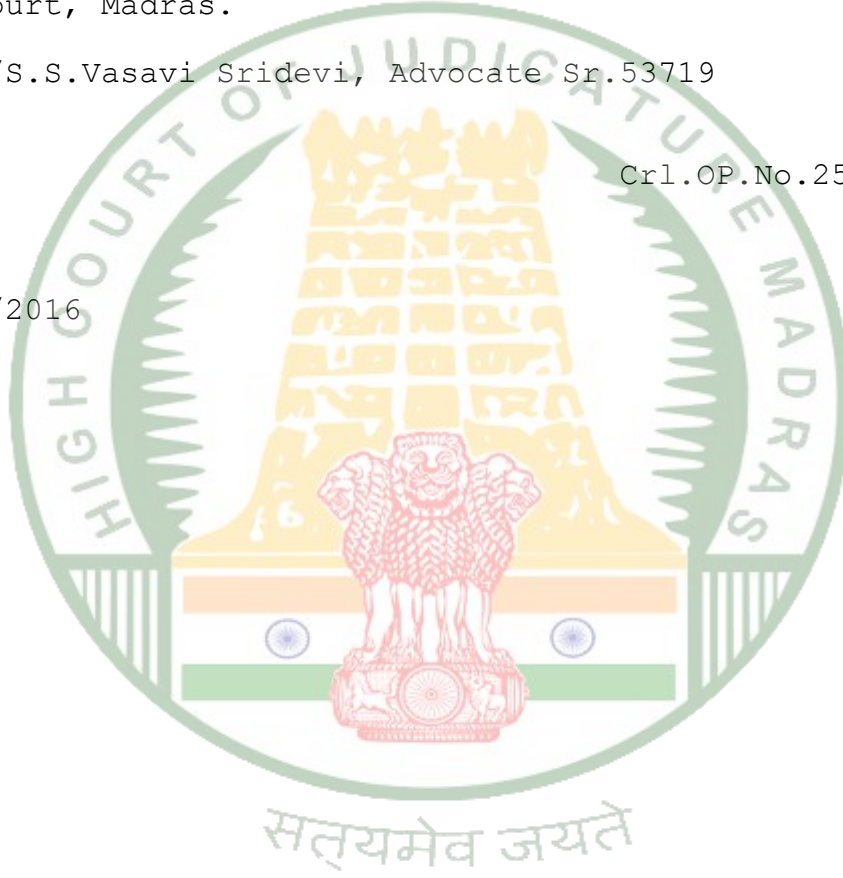
2.The Inspector of Police,
Thalaignayaru Police Station,
Nagapattinam District.

3.The Public Prosecutor,
High Court, Madras.

+2cc to M/S.S.Vasavi Sridevi, Advocate Sr.53719

Cr1.OP.No.25654 of 2010

sv[co]
srg 25/11/2016



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