

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2016

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

Crl. O.P. No.22448 of 2016 & Crl.M.P. No.10438 of 2016

Rabiyudeen

Petitioner

vs.

1 The State represented by
its Inspector of Police
Vaitheeswawran Kovil Police Station
Nagapattinam District
(Crime No.264 of 2012)

2 Riyasudeen

Respondents

(R2 impleaded vide order dated
18.10.2016 passed in Crl.M.P. No.10877 of 2016
in Crl.O.P. No.22448 of 2016)

Criminal Original Petition filed under Section 482, Cr.P.C.
seeking to call for the entire records pertaining to P.R.C.
No.11 of 2016 on the file of the Judicial Magistrate, Sirkali
and quash the same against the petitioner herein.

For petitioner Mr. Om Sai Ram

For R1

Mr. C. Emalias
Addl. Public Prosecutor

ORDER

This Criminal Original Petition has been filed seeking to
call for the entire records pertaining to P.R.C. No.11 of 2016
on the file of the Judicial Magistrate, Sirkali and quash the
same against the petitioner herein.

2 On the complaint lodged by Riyasudeen (de facto
complainant/second respondent herein), the first respondent
police registered a case in Crime No.264 of 2012 against
Najibudeen (A1) and Ithirees (A2) and after completing the
investigation, the first respondent police filed a final report
in P.R.C. No.11 of 2016 before the Judicial Magistrate, Sirkali
under Sections 294(b), 324, 326 and 307 IPC against Najibudeen,
Rabiudeen and Mohammed Ithiris, challenging which, Rabiudeen
(A2) is before this Court.

3 Mr. Om Sai Ram, learned counsel for Rabiudeen (A2) submitted that neither in the FIR nor in Section 161 statement nor in the police confession, the name of Rabiudeen appears and therefore, the entire prosecution is an abuse of process of law.

4 Per contra, Mr. C. Emalias, learned Additional Public Prosecutor submitted that though the name of Rabiudeen (A2) does not find in the FIR, Riyasudeen, the de facto complainant appears to have given a representation to the Superintendent of Police, pursuant to which, the Superintendent of Police had directed a thorough investigation by the police, based on which, the police have recorded the further statement of five witnesses, viz., Jabig, Mohamad Azharuddin, Fazeed, Mohamed Rafiq and Ibrahim on 12.08.2013, in which, the involvement of Rabiudeen (A2/petitioner) is stated. Based on the statement recorded, the Superintendent of Police appears to have sent a report to the Judicial Magistrate, Sirkali on 13.08.2013 to implicate Rabiudeen (A2/petitioner).

5 The learned counsel for Rabiudeen (A2/petitioner) submitted that after receiving the summons from the Judicial Magistrate Court, Sirkali, the petitioner applied for certified copy of the charge sheet, FIR and Section 161 statement and has filed the present quash petition and therefore, he has not been furnished with the further statements that have been recorded by the police.

6 Since there are sufficient materials for the trial to proceed against Rabiudeen (A2/petitioner), this is not a fit case to quash the prosecution.

In the result, this Criminal Original Petition is dismissed. Connected Crl.M.P. is closed.

सत्यमेव जयते
sd/-

Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

cad

To

1 The Judicial Magistrate
Sirkali

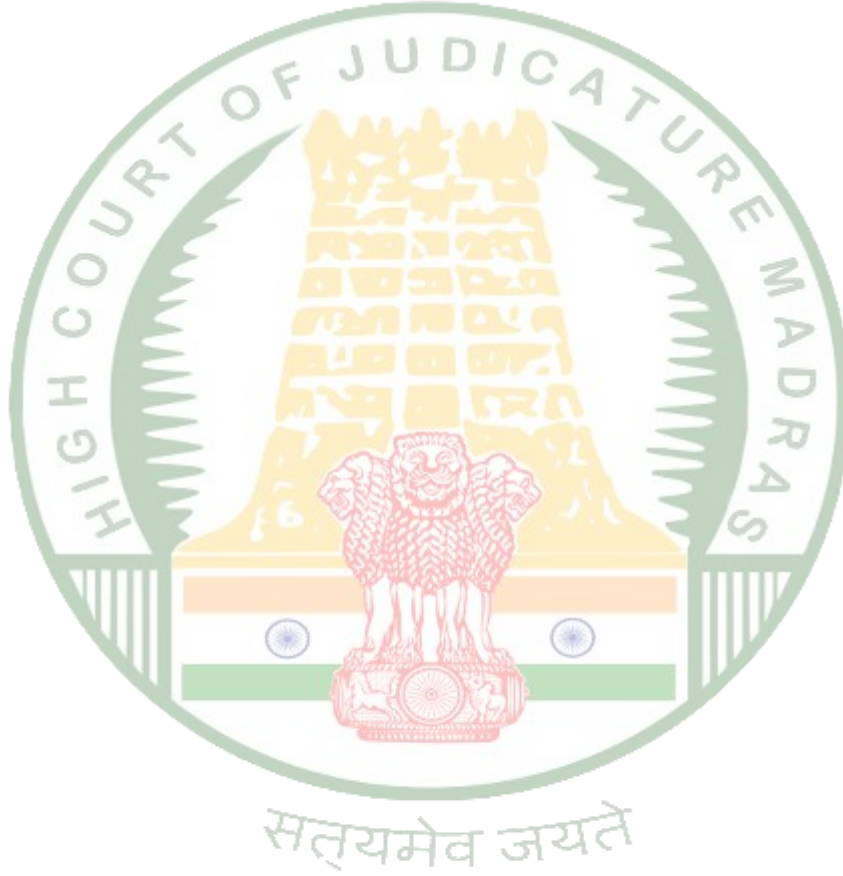
2 The Inspector of Police
Vaitheeswaram Kovil Police Station
Nagapattinam District

3 The Public Prosecutor
High Court of Madras
Chennai - 600 104

1 cc to M/s.S.T. Raja, Advocate, Sr. 63533

Crl.O.P. No.22448 of 2016

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