

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2016

CORAM:

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

Crl.O.P. No.24660 of 2016 & Crl.M.P. No.11851 of 2016

Manivasagam

..Petitioner/ Defacto Complainant

vs.

1 The State represented by
the Inspector of Police
Annamalai Nagar Police Station
Chidambaram, Cuddalore District
(Crime No.116 of 2014)

2 Arul Prakasam
3 Thambidurai
4 Poochandiran
5 Tamilvel
6 Ilangathir
7 Rajeevgandhi
8 Ravi
9 Kabilan
10 Puratchidasan

..Respondents/Accused

Criminal Original Petition filed under Section 482, Cr.P.C. seeking to call for the records pertaining to case in C.C. No.127 of 2015, pending on the file of the Judicial Magistrate No.I, Chidambaram and set aside the order of taking cognizance of the case dated 12.08.2015 and further directing the Judicial Magistrate No.1, Chidambaram, to issue notice to the petitioner before taking cognizance of the final report submitted by the respondent police in Cr. No.116 of 2014.

For petitioner Mr. G. Pugazhenth

For R1

Mr. C. Emalias

Addl. Public Prosecutor

ORDER

This Criminal Original Petition has been filed seeking to call for the records pertaining to case in C.C. No.127 of 2015, pending on the file of the Judicial Magistrate No.I, Chidambaram and set aside the order of taking cognizance of the case dated 12.08.2015 and further directing the Judicial Magistrate No.1, Chidambaram, to issue notice to the petitioner before taking cognizance of the final report submitted by the respondent police in Cr. No.116 of 2014.

2 On the complaint lodged by the petitioner, the first respondent police registered a case in Crime No.116 of 2014 on 27.04.2014 under Sections 147,148,294(b),324,454,380,506(ii),435 and 307 IPC against one Arulprakasam and 11 named others and 50 unnamed others. After completing the investigation, the first respondent police have filed a final report in C.C. No.127 of 2015 before the Judicial Magistrate Court No.I, Chidambaram, for offences under Sections 147, 148 and 435 read with Section 149 IPC against 9 accused leaving out three of them. The Judicial Magistrate No.I, Chidambaram has taken cognizance of the offences without notice to the de facto complainant ignoring the law laid down by the Supreme Court in Bhagwat Singh vs Commissioner Of Police And another [1985 AIR SC 1285].

3 It is trite that if the police had dropped some persons in the final report who were originally named in the FIR, an opportunity should be given to the de facto complainant to file protest application.

4 In the instant case, no such an opportunity has been given to the de facto complainant. Hence, this Court is setting aside the order of taking cognizance alone and is directing the Judicial Magistrate No.I, Chidambaram to re-consider the final report and accompanying documents.

5 Further, this Court is not passing any order prejudicial to the interest of respondents 2 to 10. Hence, in the considered opinion of this Court, no notice is required to them, because, that will only further delay the proceedings before the Trial Court.

In the result, the order of the Judicial Magistrate No.I, Chidambaram, taking cognizance of the offences in C.C. No.127 of 2015 in Cr. No.116 of 2014 is alone set aside and liberty is given to the petitioner to file a protest application before the Judicial Magistrate No.I, Chidambaram, within two weeks from the date of receipt of a copy of this order. Thereafter, the Judicial Magistrate No.I, Chidambaram, shall pass orders afresh in accordance with law. Connected Crl.M.P. is closed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

To

1 The Inspector of Police
Annamalai Nagar Police Station
Chidambaram
Cuddalore District

2 The Judicial Magistrate No.I
Chidambaram

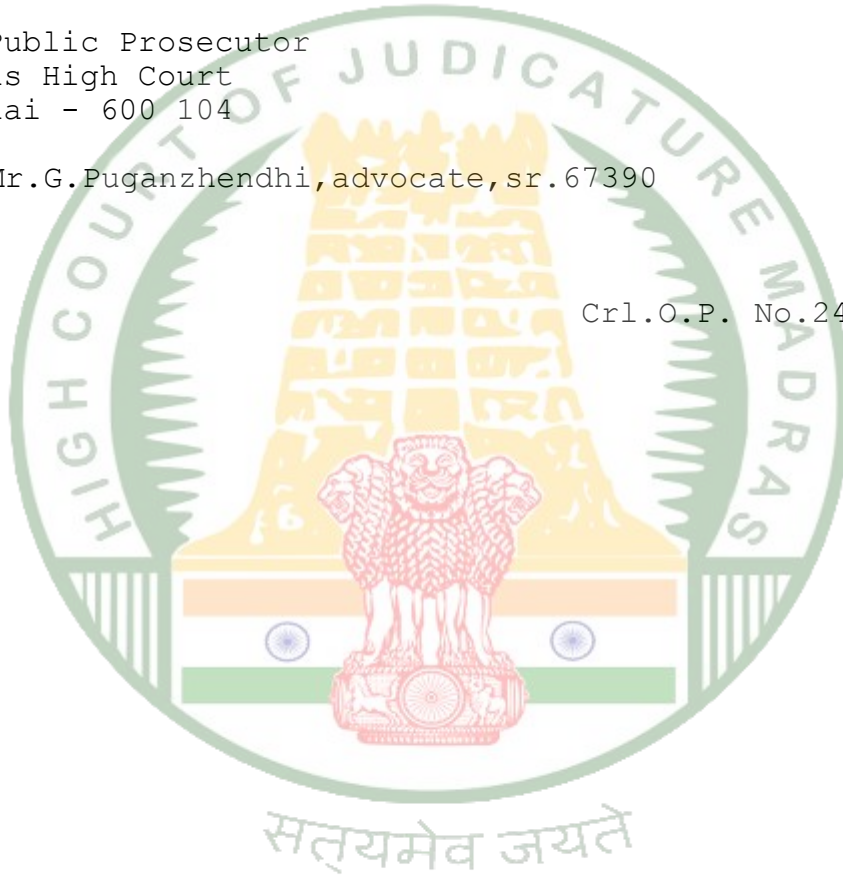
3 do thro'the Chief Judicial Magistrate, Chidambaram.

4 The Public Prosecutor
Madras High Court
Chennai - 600 104

+1 cc to Mr.G.Puganzhendhi,advocate,sr.67390

vgi(co)
krd 27/12

Cr1.O.P. No.24660 of 2016



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