



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.03.2016

CORAM:

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

Crl.O.P. (MD) No.3867 of 2016

and

Crl.M.P. (MD) Nos.1951 and 1952 of 2016

1.Natesan
2.Jeya Singh
3.Justin Singh

... Petitioners

Vs.

1.State rep.by its
The Inspector of Police,
Pudukkadai Police Station,
Kanyakumari District.
(Crime No.379/2014)

2.Viswanathan

... Respondents

PRAYER: The Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records in P.R.C.No.24 of 2015 on the file of the learned Judicial Magistrate No.II, Kuzhithurai, Kanyakumari District and quash the proceedings as against the petitioners.

For Petitioners : Mr.A.Thiruvadi Kumar

For Respondents : Mrs.S.Prabha, Government Advocate (Crl.side)
for R1

O R D E R

It is seen that on the complaint given by the 2nd respondent, Viswanathan, a case in Crime No.379 of 2014 was registered by the 1st respondent Police for various offences including Section 307 IPC., against the petitioners in respect of an incident alleged to have taken place on 29.08.2014 at 3.00 p.m.

2.On a complaint given by one Nisha, the wife of the 2nd petitioner, Jayasingh, the 1st respondent Police registered a case in Crime No.380 of 2014 for the offences under Sections 147, 148, 294(b), 324, 506(ii), 307 and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act against the 2nd respondent, Viswanathan and 5 others.

3.The 1st respondent Police conducted investigation in both the cases and filed a final report in Crime No.279 of 2014, which has been taken on file as P.R.C.No.24 of 2015 by the learned Judicial Magistrate for offences under Sections 294(b), 324, 506(ii) and 307 IPC. The 1st respondent Police filed a closure report in Crime No.380 of 2014 on the ground that the said Nisha has given a false complaint



against the 2nd respondent and others as a counterblast for the complaint lodged by the 2nd respondent in Crime No.379 of 2014. The RCS notice was served on the de facto complainant and the closure report was filed before the Judicial Magistrate No.II, Kuzhithurai. The said Nisha appears to have filed a protest application challenging the closure report.

4.Mr.Thiruvadikumar, learned counsel for the petitioners brought to the notice of this Court that the learned Judicial Magistrate No.II, Kuzhithurai has taken the protest application on file and passed a laconic order directing reinvestigation.

5.In the considered opinion of this Court, the learned Judicial Magistrate has no power to order reinvestigation. When a closure report is filed on which, if a protest application is filed, the learned Judicial Magistrate should consider both and pass a speaking order as to why he is not agreeing with the closure report filed by the Police before ordering further investigation under Section 173(8) Cr.P.C. In this case, no such speaking order has been passed by the learned Judicial Magistrate No.II, Kuzhithurai. Therefore, now it is contended by the learned counsel for the petitioner that since the learned Judicial Magistrate has ordered reinvestigation in Crime No.380 of 2014, undue prejudice would caused to the petitioners, if the case in P.R.C.No.24 of 2015 is committed to the court of sessions and therefore, this Court has to stay the further proceedings in P.R.C.No.24 of 2015.

6.This Court is unable to countenance the argument of the learned counsel for the petitioners for the reason that when there is a case and counter and if two final reports were filed against opposite parties, both the cases should have to be tried simultaneously and judgments should be passed in the cases individually on the same date. In this case, the 1st respondent Police have not filed a final report in Crime No.380 of 2015, but they have filed a closure report. Hence, this Court cannot go under the presumption that based on the order passed by the learned Judicial Magistrate No.II, Kuzhithurai, the 1st respondent Police will file a final report negating the earlier closure report. Such an inference cannot be arrived at by this Court while exercising the powers under Section 482 Cr.P.C.

7.Hence, this Court is not inclined to grant the relief as prayed for by the petitioner. However, the order passed by the learned Judicial Magistrate No.II, Kuzhithurai in ordering reinvestigation in Crime No.380 of 2014 is set aside and the learned Judicial Magistrate is directed to analyze the materials on record dispassionately and arrive at a conclusion by a speaking order, whether to order further investigation or not.

8.With the above observation, this Criminal Original petition is closed. Consequently, connected Crl.M.Ps.are closed.

Sd/-
Assistant Registrar

/True copy/



To

1.The Judicial Magistrate No.II, Kuzhithurai.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

3.The Inspector of Police,
Pudukkadam Police Station,
Kanyakumari District.

+1 CC to Mr.A.THIRUVADI KUMAR, Advocate, SR No.12739

Cr1.O.P. (MD) No.3867 of 2016
04.03.2016

nbj

SH/SK-SKN:18.03.2016:2P/5C