



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.07.2016

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

Crl.O.P. (MD) .No.5823 of 2016

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H.T.Sathiyadhas

... Petitioner

vs

1. The Inspector of Police,
Nesamani Nagar Police Station,
Kanyakumari District.(Crime No.57/2014)

2. A.Ilango
Additional Superintendent of Police,
District Crime Records Bureau,
Nagercoil-1.

3. Rajesh
Inspector of Police,
Nesamani Nagar, Nagercoil-1.

... Respondents

(R2 & R3 impleaded as per order of this Court dated 18.04.2016)

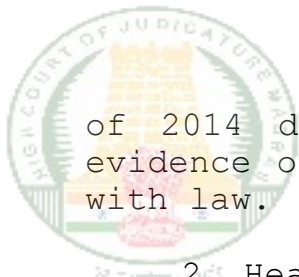
Prayer: Petition filed under Section 482 of the Code of Criminal Procedure to set aside the order in Crl.M.P.No.5171 of 2014 in R.C.No.24 of 2014 dated 11.01.2016 passed by the learned Judicial Magistrate No.II, Nagercoil, Kanyakumari District to the extent of directing the respondent police to conduct further investigation and file final report in Crime No.57 of 2014 dated 02.02.2014 on the file of the respondent and modify the same as directing the learned Judicial Magistrate Court No.II, Nagercoil, Kanyakumari District to take cognizance of the case in Crime No.57 of 2014 dated 02.02.2014 on the file of the respondent and record evidence of witness on oath and deal with the matter in accordance with law.

For Petitioner : Mr.T.Lajapathi Roy

For R1 : Mr.P.Kandasamy
Govt. Advocate (Crl.Side)

O R D E R

This petition has been filed, seeking to set aside the order in Crl.M.P.No.5171 of 2014 in R.C.No.24 of 2014 dated 11.01.2016 passed by the learned Judicial Magistrate No.II, Nagercoil, Kanyakumari District, by which the final report filed by the 1st respondent police herein has been set aside; that the order of the learned Magistrate did not stop with that and it goes on further directing the very same respondent police to conduct further investigation and file final report in Crime No.57 of 2014 dated 02.02.2014 and that the petitioner seeks modification of the said order to the extent of directing the learned Judicial Magistrate Court No.II, Nagercoil, Kanyakumari District to take cognizance of the case in Crime No.57



of 2014 dated 02.02.2014 on the file of the respondent, record evidence of witness on oath and deal with the matter in accordance with law.

2. Heard the learned counsel on either side.

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3. The order of the Magistrate is assailed on the ground that by order dated 03.06.2014, an Additional Superintendent of Police (ADSP), District Crime Branch, namely, Thiru A. Ilango / 2nd respondent herein has been appointed as the Investigating Officer and the 1st respondent has handed over the entire CD file to the ADSP; that the 1st respondent has no authority to file the final report in this case and therefore, it has to be set aside.

3.1. Learned Magistrate, though rightly set aside the final report filed by the 1st respondent herein, has gone farther, directing the very same Investigating Officer / 1st respondent herein, to conduct further investigation.

4. Having regard to the fact that the investigation had already been ordered to be done by the ADSP, District Crime Branch, a part of the order of the Magistrate, viz., directing the 1st respondent police to further investigate into the matter, cannot be upheld and the same needs modification.

5. Accordingly, this Criminal Original Petition is partly allowed and a portion of the order of the learned Judicial Magistrate No.II, Nagercoil, Kanyakumari District dated 11.01.2016, referred to above, is set aside and is modified to the extent that as the right of investigation is conferred upon the Additional Superintendent of Police, District Crime Branch, Nagercoil, it is open to him to conduct further investigation in the matter in connection with the case in Crime No.57 of 2014 and take action in accordance with law.

Sd/-

Assistant Registrar (Records)

/TRUE COPY/

Sub Assistant Registrar

To:

1. The Judicial Magistrate No.II,
Nagercoil, Kanyakumari District.
2. The Additional Superintendent of Police,
District Crime Branch, Nagercoil-1.
3. The Inspector of Police,
Nesamanni Nagar Police Station,
Kanyakumari District.



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

+1 CC to Mr.T.Lajapathi Roy Advocate SR.No.39656.

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Msr/12.08.16/DB/3p/6c

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