



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 08.06.2016

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THE HONOURABLE DR.JUSTICE P.DEVADASS

Criminal Revision Case (MD)No.131 of 2016

S.Pasumpon Pandian

.. Petitioner

Vs.

1.Selloor K.Raju

2.State rep by

The Inspector of Police,
S.S.Colony Police Station,
Madurai City,
in Crime No.74 of 2016.

.. Respondents

Petition filed under Section 397 and 401 of Cr.P.C, to call for the records from the lower Court and to set aside the order passed in Cr.M.P.No.121 of 2016 dated 27.01.2016 on the file of the learned Judicial Magistrate, No.V, Madurai in Cr.No.74 of 2016 on the file of the second respondent Police by allowing this revision.

For Petitioner : Mr.M.Meenal Pandian

For 2nd Respondent : Ms.S.Prabha,
Government Advocate (Crl.Side)

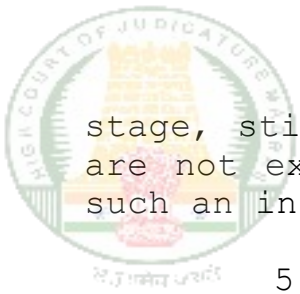
ORDER

A-1 challenges the dismissal of his Crl.M.P.No.121 of 2016 filed under Section 310 Cr.P.C by the learned Judicial Magistrate No.V, Madurai.

2.On 09.01.2016, at about 11.30 p.m, near the Madurai West M.L.A's office situate in Sammatipuram junction, Madurai city, near the bye pass Road, explosion took place. It is suspected to be due to hurling of country made bombs.

3.In this connection, the Inspector of Police, S.S.Colony Police Station, Madurai registered a case in Crime No.74 of 2016 under Section 3(a) of the Explosive Substances Act, 1908. In this connection, eight persons were booked.

4.A1 has filed Crl.M.P.No.121 of 2016 seeking local inspection of the scene of crime. The learned Magistrate dismissed this petition on the ground that the case is in the investigation



stage, still collection of evidence is not over and the witnesses are not examined in Court and only thereupon, if the need arises such an inspection can be done.

5. Aggrieved, A-1 has directed this revision.

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6. Learned counsel appearing for the revision petitioner, would submit that in the facts and circumstances, a local inspection of the alleged place of occurrence will throw much light on this case. It will show that the accused has not committed any offence and it will show the accused is not concerned in this case.

7. Learned Government Advocate (Criminal Side) reiterated the contentions which were placed before the trial Court.

8. I have anxiously considered the rival submissions perused the impugned order and the materials on record.

9. It would be useful to extract hereunder the very provision of Section 310 Cr.P.C. It runs as under:-

"(1) Any Judge or Magistrate may, at any stage of any inquiry, trial or other proceeding, after due notice to the parties, visit and inspect any place in which an offence is alleged to have been committed, or any other place which it is in his opinion necessary to view for the purpose of properly appreciating the evidence given at such inquiry or trial, and shall without unnecessary delay record a memorandum of any relevant facts observed at such inspection.

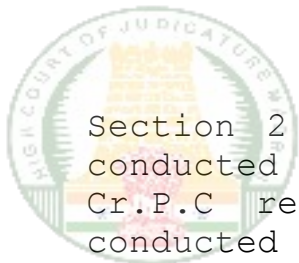
(2) Such memorandum shall form part of the record of the case and if the prosecutor, complainant or accused or any other party to the case, so desires, a copy of the memorandum shall be furnished to him free of cost".

10. Section 310 Cr.P.C enables the Magistrates and Judges to make local inspection. It cannot be a substitute for collection of evidence. Such inspection cannot be interchanged for investigation. Evidence should be recorded in the trial Court before the Judge. But the said inspection can be resorted to at any stage of enquiry or trial.

11. It is intended for the purpose of appreciation of evidence adduced before the Court. If the Court finds that the evidence presents certain physical features and the need arises to see the very place so as to appreciate the evidence adduced and render a correct finding, then local inspection can be done.

<https://hcservices.ecourts.gov.in/hcservices/>

12. It is pertinent to note that the phraseology inquiry has been employed in Section 310 Cr.P.C. Definition of inquiry in



Section 2 Cr.P.C suggests inquiries, other than the proceedings conducted by the police. This inquiry mentioned in Section 310 Cr.P.C refers to judicial inquiries. It includes inquiries conducted before the executive magistrates; it includes the inquiry conducted by the Sub Divisional Magistrate relating to abatement of public nuisance. Section 310 Cr.P.C is wide in its scope and also in its application. It cannot be restricted to any stage. But the focal point is need and necessity at a particular stage of the case for the Court to make such local inspection.

13.Now in this case, the local inspection could arise, when the Investigating Officer completes his investigation, files final report and also submits materials as to the place of occurrence and the witnesses adduces evidence and in order to appreciate the evidence adduced with regard to the place of occurrence place of explosion if the Judge feels necessary then he make local inspection, he can alone do it and he cannot delegate it. Now such an inspection is premature. It is not the appropriate stage.

14.In this view of the matter, there is no flaw in the order passed by the learned Magistrate.

15.Thus, this revision fails and it is dismissed.

Sd/-

Assistant Registrar (P&A)

/True copy/

Sub Assistant Registrar

To

1.The Judicial Magistrate, No.V,
Madurai

2.The Inspector of Police,
S.S.Colony Police Station,
Madurai City.

+1 CC to Mr.M.MEENALPANDIAN, Advocate, SR No.29299

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sms

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