

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.03.2017

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

Crl.R.C.No.368 of 2017

and

Crl.M.P.No.3408 of 2017

K.S.Antony Rajesh
S/o.B.Susairaj

..Petitioner

Vs.

State through
The Inspector of Police,
T-14, Mangadu Police Station,
Mangadu, Chennai.
Crime No.1195 of 2014

.. Respondent

Criminal Revision Case filed under Section 397 and 401 Cr.P.C. against the order of learned Judicial Magistrate, Sriperumbudur, passed in Crl.M.P.No.1532 of 2016 in C.C.No.119 of 2016 on 30.12.2016.

For Petitioner : Mr.A.D.Jagadish Chandira

For Respondent : Mr.M.Mohammed Riyaz

Government Advocate [Crl.side]

O R D E R

This revision arises against the order of learned Judicial Magistrate, Sriperumbudur, passed in Crl.M.P.No.1532 of 2016 in C.C.No.119 of 2016 on 30.12.2016.

2. Petitioner preferred a complaint before the respondent police and the same was registered in Crime No.1195 of 2014 for offences u/s.448, 147, 148, 324, 380 and 506(ii) IPC. Upon completion of investigation, a final report has been filed informing the case to be 'mistake of fact'. There against, petitioner preferred protest petition and the same was taken on

file. When the case was at the stage of petitioner's evidence, he has moved Crl.M.P.No.1532 of 2016 seeking further investigation. Court below, under orders dated 30.12.2016, dismissed such petition as not maintainable. Hence, this revision.

3. Heard learned counsel for petitioner and learned Government Advocate [Crl.side].

4. This revision is to be allowed on the sole ground that the Court below has dismissed a petition seeking further investigation informing that the de facto complainant is not entitled to move a petition therefor. Such finding is erroneous in view of the judgment of the Apex Court in Vinay Tyagi v. Irshad Ali alias Deepak and others [2013 (5) SCC 762].

Accordingly, the Criminal Revision Case is allowed. The order of learned Judicial Magistrate, Sriperumbudur, passed in Crl.M.P.No.1532 of 2016 in C.C.No.119 of 2016 on 30.12.2016, is set aside. Crl.M.P.No.1532 of 2016 shall stand restored to the file. Court below is directed to decide the same on merits. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gm

To

1 The Judicial Magistrate,
Sriperumbudur.

2 The Public Prosecutor, High Court, Madras

+1cc to Mr.A.D. Jagadish Chandra, Advocate, S.R.No.13980

pa (CO)
md(16/03/2017)

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