

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2017

CORAM:

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

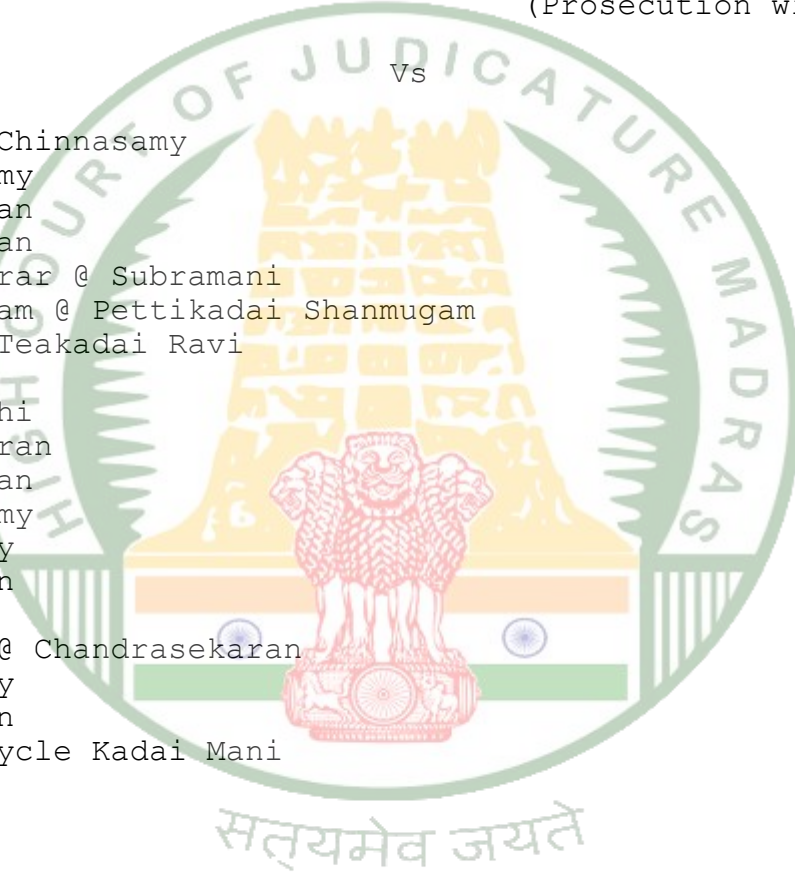
CrI.R.C.No.390 of 2014
and M.P.No.1 of 2014

Maheswari

... Petitioner/Victim
(Prosecution witness)

Vs

1. Tailor Chinnasamy
2. Muthusamy
3. Rajendran
4. Subbaiyan
5. Kothukarar @ Subramani
6. Shanmugam @ Pettikadai Shanmugam
7. Ravi @ Teakadai Ravi
8. Gopal
9. Ragupathi
10. Gunasekaran
11. Maniamaran
12. Palanisamy
13. Duraisamy
14. Samiappan
15. Sundaram
16. Senthil @ Chandrasekaran
17. Duraisamy
18. Murugesan
19. Mani @ Cycle Kadai Mani
20. Chandran
21. Karthik
22. Gandhi
23. Vadivel
24. Thangadurai @ Arasan
25. Karuppian
26. Arumuga Gounder
27. Ganapathy
28. Rukmani
29. Pushpa
30. Sivagami
31. Chinnammal
32. Ranjitha
33. Mani



WEB COPY

34. The State represented by
Inspector of Police
Kodumudi Police Station
Erode District

... Respondents 1 to 33/Accused
Complainant

Prayer:- Criminal Revision filed under Section 397 r/w 401 of Cr.P.C., praying to set aside the order dated 27.12.2013 made in C.M.P.No.6399 of 2013 in C.C.No.40 of 2012 on the file of the District Munsif cum Judicial Magistrate, Kodumudi by allowing the Revision Petition.

For petitioner : Mr.M.Guruprasad
For Respondents : Notice served on R1 to
R25
and R27 to R33
Notice Returned on R26
Mr.R.Ravichandran,
Government Advocate for R34

O R D E R

This Criminal Revision Petition challenges the order of the District Munsif cum Judicial Magistrate, Kodumudi, dated 27.12.2013 made in CrI.M.P.No.6399 of 2013 in C.C.No.40 of 2012.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl side) appearing for the respondent police.

3. The petitioner filed a petition under Section 173(8) of Cr.P.C. in CrI.M.P.No.6399 of 2012 in C.C.No.40 of 2012 on the file of the District Munsif cum Judicial Magistrate, Kodumudi seeking further investigation in the case. The petitioner is a de-facto complainant and based on his complaint, a case was registered under Sections 147, 148, 448, 427, 201 and 506(ii) of IPC against respondents 1 to 32/accused. Subsequently, after investigation, final report had been filed for the offences under Sections 147, 148, 448, 427, 201 and 506(ii) IPC. Now, the grievance of the petitioner is that the charges have not been properly framed by the respondent-police and no proper investigation has been done by the respondent-police and defective charges had been filed without including the actual offences. Under these circumstances, the petitioner filed the petition under Section 173(8) of Cr.P.C. in CrI.M.P.No.6399 of 2012 seeking further investigation. The Court below dismissed the petition. Challenging the same, the defacto complainant has filed the present Criminal Revision Petition.

4. The Full Bench of this Court in Chinnathambi Vs. State Rep. by the Inspector of Police, Vellakovil Police Station, Tirupur District, reported in 2017 SCC online Mad 670, in paragraph 54 of the judgment in clause (vii) the Full Bench observed that "the power to grant permission for further investigation under Section 173(8) of Cr.P.C. after cognizance has been taken on the police report, can be exercised by the Magistrate only on a request made by the investigating agency and not, at the instance of anyone other than the investigating agency or even suo motu. (vide judgment of the Hon'ble Supreme Court in Amrutbhai Shambhubhai Patel v. Sumanbhai Kantibhai Patel, 2017 (2) scale 198]".

5. In view of the above judgment of the Full Bench, the petitioner being the defacto complainant, cannot maintain the petition under Section 173(8) Cr.P.C. Hence, the present Revision has no merits and the same is dismissed. Connected Miscellaneous petition is also closed.

-s/d-
Assistant Registrar(CSVI)

True Copy

Sub-Assistant Registrar

dpq

To

1. The District Munsif cum Judicial Magistrate,
Kodumudi

2.The Inspector of Police
Kodumudi Police Station
Erode District

3.The Public Prosecutor High Court,
Madras

+1 cc to Mr.M.Guruprasad Advocate sr 19744

Cr1.R.C.No.390 of 2014
and M.P.No.1 of 2014

nml(co)
aa20/04/2017