

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE V. BHARATHIDASAN

Crl. Revision Case No.592 of 2017
and
Crl.M.P.No.5212 of 2017

Indirani

.. Petitioner

Versus

The State represented by
the Inspector of Police,
Karamadai Police station,
Mettupalayam Taluk,
Coimbatore District.

.. Respondent

Criminal Revision Case filed under Section 397 r/w 401
of the Criminal Procedure Code to set aside the order passed by
the learned I Additinal District and Sessions Judge, Coimbatore,
in Crl.M.P.No.78 of 2016 in S.C.No. 313/2015 dated 16.09.2016 .

For Petitioner : Mr.B.Balavijayan

For Respondents : Mr.R.Ravichandran
Government Advocate (Crl. side)

O R D E R

Challenging the order passed by the I Additional
District and Sessions Judge, Coimbatore, in Crl.M.P.No.78 of
2016 in S.C.No.313 of 2015, dated 16.09.2016, the present
revision has been filed.

2. The petitioner is a defacto-complainant, alleging
that there is no proper investigation by the respondent police,
filed a petition under section 173(8) of Cr.P.C., seeking
further investigation and the court below dismissed the same.
challenging the order, the present revision has been filed.

3. A Full bench of this Court reported in 2017 (2) CTC
241 (Chinnathambi @ Subramani vs. State), it has been held as
follows:

(vii) The power to grant permission for further investigation under Section 173(8) 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.

(viii) The power to grant permission for further investigation under Section 173(8) of Cr.P.C. can be exercised by the Magistrate before accepting the Negative Police Report thereby acting on the Protest Petition by the victim or the defacto complainant."

In the above circumstances, the defacto complainant cannot maintain a petition under Section 173(8) Cr.P.C., seeking further investigation. Hence, I find no irregularity or illegality in the order passed by the court below.

4. Accordingly, the Criminal Revision Case is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

mrp

To

1. The I Additional District and Sessions Judge, Coimbatore.
2. The Inspector of Police, Karamadai Police Station, Mettupalayam Taluk, Coimbatore District.
3. The Public Prosecutor, High Court, Madras.

Cr1.R.C.No.592 of 2017

MG (CO)
VR(26/5/2017)