

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 15.03.2017
CORAM
THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN
Crl.R.C.No.610 of 2014
&
MP.No.1 of 2014

Ramdoss

... Petitioner

vs

1.The Inspector of Police,
Kunnam Police Station,
Perambalur District.

2.Velayutham

3.Mani

4.Nadesan

5.Padakathu

... Respondents

Criminal Revision has been filed under section 397 r/w 401 of the Code of Criminal Procedure, to set aside the order passed in Crl.M.P.No.37 of 2013 in S.C.No.33 of 2012 on the file of the Chief Judicial Magistrate Court, Perambalur and allow the same for further investigation of the case by a competent police officer other than the inspector who investigated the case.

For Petitioner : Mr.D.Prabhu Mukunth

For Respondents : Mr.R.Ravichandran
Government Advocate (Crl. Side)
for R1
Mr.C.Prabakaran for R2 to R5

ORD E R

The petitioner has filed a petition under Section 173(8) Cr.P.C. before the Court below seeking further investigation directing the first respondent to record Section 161 Cr.P.C. statements of the eye witness listed in the charge sheet and to file additional report.

2. The petitioner/defacto complainant filed a complaint before the respondent police and a case was registered and after investigation final report has been filed, and the matter was taken on file now the matter is pending for trial. At this stage, the petitioner/defacto complainant filed a petition under Section 173(8) Cr.P.C. seeking further investigation. The trial

Court dismissed the said petition holding that the petition filed under Section 173(8) Cr.P.C. is not maintainable. Challenging the said order of dismissal, the present civil revision case has been filed.

3. The issue involved in this matter is no longer res integra in view of the Full Bench Judgment of this court in Criminal Appeal No.663 of 2016, dated 23.02.2007, wherein, the Full Bench of this Court has held as follows:-

(vii) The power of 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 moto.

4. In view of the Full Bench Judgment of this Court, the petitioner/defacto complainant is not entitled to seek for further investigation after charge sheet has been filed. Hence, I find no error in the order passed by the Court below and the criminal revision case deserves to be dismissed. However, it is always open to the petitioner to approach the trial Court for any relief if available to him under law. Consequently, connected MP is closed.

-s/d-

Assistant Registrar(CSVIII)

True Copy

Sub-Assistant Registrar

rrg

1.The Chief Judicial Magistrate Court,
Perambalur.

2.The Inspector of Police,
Kunnam Police Station,
Perambalur District.

3.The Public Prosecutor,
High Court, Madras-104.

+1 cc to Mr.Sreenivasan Advocate sr 16831

+1 cc to Mr.Prabu Mukunth Arunkumar Advocate sr 16403

Cr1.R.C.No.610 of 2014

mg(co)

aa10/04/2017