

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.09.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

Crl.O.P.No.970 of 2017
and Crl.MP.No.726 of 2017

K.M.Palanisamy

.. Petitioner

Vs.

1.The Additional Director General of Police,
Crime Branch CID,
Chennai.

2.The Superintendent of Police,
Namakkal District,
Namakkal.

3.The Inspector of Police,
Tiruchengode Town Police Station,
Namakkal District,
Crime No.390 of 2013.

4. The Inspector of Police,
District Crime Branch,
Namakkal.

5. T.S.Mathivanan

[Impleaded the 5th respondent as per the order of this
Court dated 08.02.2017 in Crl.MP.No.1367 of 2017]

.. Respondents

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PRAYER: Original Petition filed under Section 482 Cr.P.C. praying to direct the 1st respondent to order fresh or reinvestigation in Crime No.390 of 2013 at the instance of CB CID or through the 4th respondent after eschewing the final report filed in S.C.No.50 of 2016 on the file of the learned Assistant

Sessions Judge, Tiruchengode, in line with the earlier order dated 09.10.2013 made in Crl.OP.No.15628 of 2013.

For Petitioner : Mr.N.Manokaran
 For Respondents : Mr.P.Govindarajan
 Additional Public Prosecutor
 For R1 to R4
 Mr.C.Prakasam, For R5

ORDER

The petitioner has sought for a direction to conduct a fresh investigation in Crime No.390 of 2013.

2. One of the main grounds raised by the petitioner is that when he had earlier approached this Court seeking for transfer of investigation in Crime No.390 of 2013, this Court by an order dated 09.10.2013 passed in Crl.O.P.Nos.15628 and 15946 of 2013, had directed the first respondent viz., Superintendent of Police, Namakkal District, to transfer the case in Crime No.390 of 2013 to the Investigation Officer, District Crime Branch, Namakkal and the relevant portion of the said order is extracted hereunder :

“ 13. In view of the foregoings, the first respondent namely, the Superintendent of Police, Namakkal District, Namakkal, is directed to transfer the case in Crime No.390 of 2013 to

the District Crime Branch, Namakkal and also nominate a competent Police Officer, who will investigate Crime No.390 of 2013 as well as complaint of Palanisamy's daughter, Neelaveni (CSR 84 of 2013) after registering a case.

14. It is made clear that the nominated Investigation Officer shall complete the investigation, within four months from the date of receipt of case records from the second respondent and file the final report before the concerned Court. It is also made clear that within one week of receipt of order of 1st respondent, 2nd respondent shall proceed the case records to the nominated Police Officer.”

3. The said order was passed after hearing the learned Additional Public Prosecutor for the respondents 1 to 3 .

4. While that being so, it is seen that the original Inspector of Police, Tiruchengode, who had registered a complaint in Crime No.390 of 2013 had continued the investigation and chosen to file a charge sheet on 07.12.2013, which was taken on file in S.C.No.50 of 2016 on the file of the learned Assistant Sessions Judge, Tiruchengode.

5. The learned counsel appearing for the petitioner submits that

inspite of the order of this Court as well as the representation made by the petitioner on 06.12.2013, requesting the Superintendent of Police, Namakkal, to transfer the investigation to the District Crime Branch, Namakkal, the charges came to be framed against him. The learned counsel for the petitioner also submits that framing of charges were brought to his knowledge only on 22.12.2016, which necessitated him to file the present petition.

6. Mr.C.Prakasam, learned counsel appearing for the fifth respondent submitted that the case has reached the trial stage and eighteen witnesses have already been examined and at this juncture, the petitioner sought for an order of fresh investigation.

7. The learned Additional Public Prosecutor appearing for the respondents 1 to 4 also reiterated the same objections raised by the learned counsel for the fifth respondent and opposed the present petition.

8. In the normal circumstances, this Court would not interfere with the order for fresh investigation, when the charges have already been taken on file and the trial has commenced. However, in the present case, inspite

of the specific order of this Court for transfer of investigation to the District Crime Branch, Namakkal, the original Investigation Officer has chosen to continue the investigation and file the charge sheet. This would amount to total violation of the order of this Court. The respondent-police cannot claim ignorance of the order, since they were represented by the learned Additional Public Prosecutor, in the order dated 09.10.2013 made in Crl.O.P.Nos.15628 and 15946 of 2013. Hence the investigation and subsequent charges framed against the petitioner, pursuant to the order of this Court by the original investigation officer is *per se* illegal.

9. In the result, the Criminal Original Petition deserves to be allowed. Consequently, the final report filed in S.C.No.50 of 2016, dated 07.12.2013 is hereby quashed. The fifth respondent has given a complaint dated 20.05.2013 to the third respondent and the petitioner's daughter has also given a complaint dated 20.05.2013 in C.S.R.No.84 of 2013 to the third respondent. The second respondent is directed to transfer the complaint dated 20.05.2013 in C.S.R.No.84 of 2013 from the file of the third respondent viz., the Inspector of Police, Tiruchengode Town Police Station, Namakkal District, to the fourth respondent viz., the Inspector of Police, District Crime Branch, Namakkal. On receipt of the same, the fourth

respondent shall conduct a fresh investigation on the basis of these complaints. The transfer of the complaint shall be made within a period of one week from the date of receipt of a copy of this order. The fourth respondent shall complete the investigation and file a charge sheet within a period of three months from the date of receipt of the complaint.

10. Accordingly, the Criminal Original Petition is allowed. Consequently connected miscellaneous petition is closed.

05.09.2017

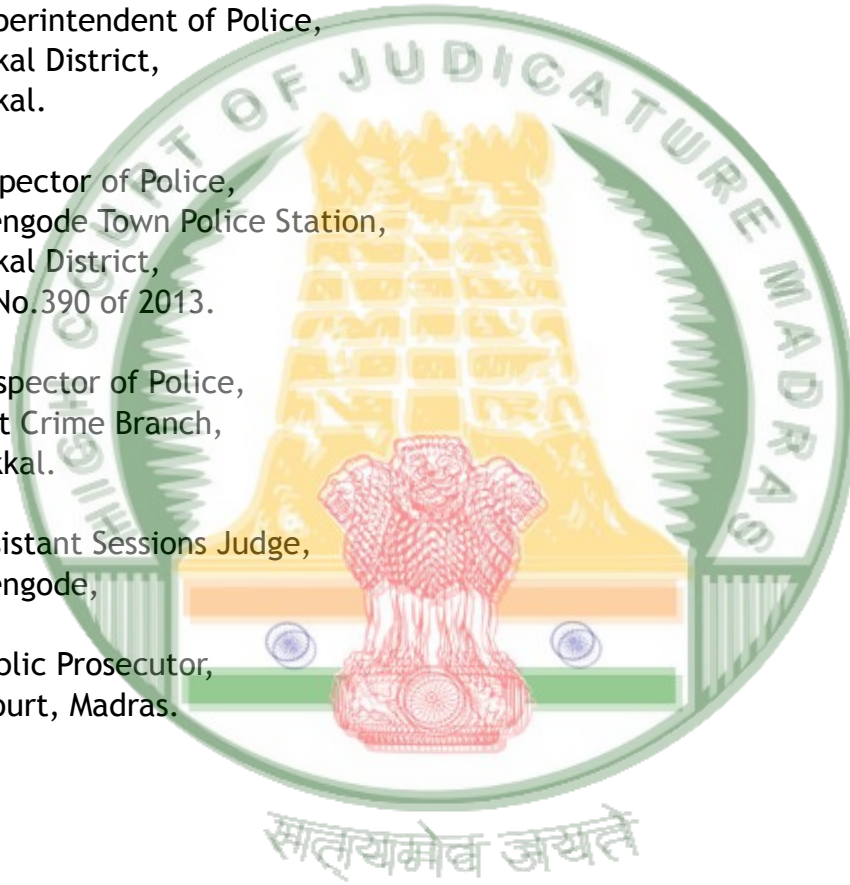
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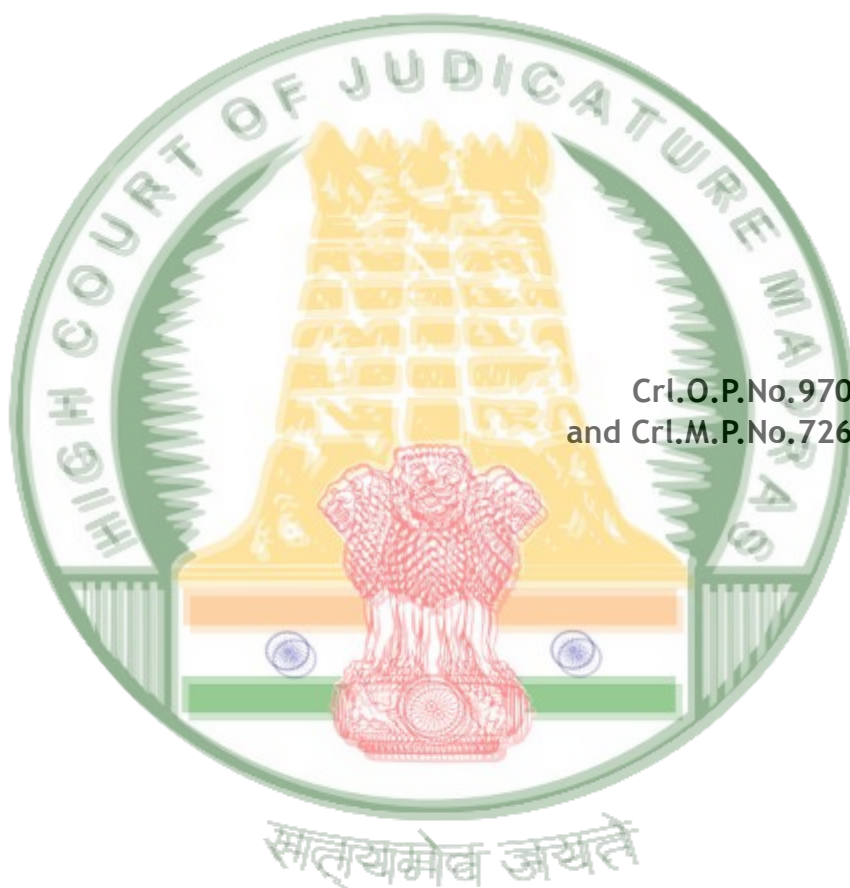
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4. The Inspector of Police,
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Namakkal.
- 5.The Assistant Sessions Judge,
Tiruchengode,
- 6.The Public Prosecutor,
High Court, Madras.



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M.S.RAMESH,J

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