

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

CrI.R.C.No.887 of 2011
and
MP.No.1 of 2011

M.Venkatesh

.. Petitioner

Vs

1. Inspector of Police,
Karunya Nagar Police Station,
Coimbatore,
Crime No.1of 2007.

2. Mathews

3. Aley Mathews

.. Respondents

Prayer:- Criminal Revision filed under Section 397 and 401 Cr.P.C., against the order of the learned Judicial magistrate No.5, Coimbatore in C.M.P.No.9500 of 2007 dated 01.06.2007.

For Petitioners : Mr. C.D.Johnson

For Respondents : Mrs.M.F.Shabana,
Gov. Advocate(Crl. Side),
for R1.

: No appearance,
for R2 and R3.

ORDER

The revision has been filed against the order passed by the Judicial Magistrate No.IV, Coimbatore ordering further investigation under Section 173(8) r/w. Section 156(3) of Cr.P.C. Earlier, based on a complaint given by the respondents 2 and 3, a crime has been registered by the respondent police, against the petitioner in Crime No.1of 2007 under Section 123, 120-B, 415 and 420 IPC. After investigation, the respondent police, filed a final report referring the case as a civil dispute. Thereafter, the learned Judicial Magistrate, after receipt of the same, issued a notice to the defacto complainant, and the defacto complainant filed a protest petition. Thereafter the learned Judicial Magistrate, on perusal of records and on perusing the final report, was of the opinion that no proper investigation was conducted by the respondent police and hence, he ordered further investigation, and the Inspector of Police,

attached to the respondent police was directed to take up the matter for further investigation and submit a final report. Now, challenging the order passed by the learned Judicial Magistrate No.V, Coimbatore, the accused is before this court with this appeal.

2. I have heard Mr.C.D.Johnson, learned counsel appearing for the petitioner and Mrs.M.F.Shabana, Government Advocate (Crl. Side) appearing for the first respondent and also perused the records carefully.

3. The learned counsel appearing for the petitioner vehemently contended that the learned Judicial Magistrate without giving any reason simply ordered further investigation. The respondent police, after considering all the materials available on records, during the investigation, found that no prima facie case is made out against the petitioner, and laid negative final report. Without considering the same, the learned Judicial Magistrate, mechanically ordered further investigation.

4. The learned Judicial Magistrate, after considering the final report filed by the respondent police, came to a conclusion that the investigation has not been properly conducted and hence, he ordered further investigation. An order of further investigation will no way cause prejudice to the petitioner and the petitioner being an accused has no right to question the same, and contend in which way the investigation should be conducted. In the above circumstances, I find no irregularity or illegality in the order passed by the court below.

5. In the result, the revision is dismissed and the respondent police is directed to conduct further investigation and file a final report within a period of 6 weeks from the date of receipt of a copy of this order and the Inspector of Police, attached to the respondent police is directed to conduct fair enquiry uninfluenced by any of the observation made by the learned Judicial Magistrate as well as this Court.

mrp

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1. The Judicial Magistrate,
Judicial Magistrate court No.V
Coimbatore.

2. The Inspector of Police,
Karunya Police Station,
Coimbatore.

3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.R.Senniappan, Advocate SR.No.8550/2017

CrI.R.C.No.887 of 2011

SM:29.11.2017



08.02.2017

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