

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2017

Coram

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

Crl. Revision Case No.933 of 2015
and
Crl.M.P.No.1 of 2015

Aarti R. Nair

... Petitioner

//vs//

1. State rep. by
The Inspector of Police,
R5, Virugambakkam Police Station,
Chennai.
Crime No.141 of 2009.

2. G. Rajeev Gopal

3. N. Pichai

.... Respondents

Prayer: Criminal Revision Petition filed under Section 397 read with 401 of the Code of Criminal Procedure praying to call for the records in Crl.M.P.No.350 of 2015 in C.C.No.14475 of 2009 on the file of the XXIII Metropolitan Magistrate Court, Saidapet, Chennai and to set aside the order dated 22.07.2015.

For Petitioner : Mr.N.R.Elango,
Senior counsel for
Mr.R.Vivekananthan

For Respondent : Mr.R.Ravichandran
Government Advocate (Crl. Side)
for R1
Ms.Amudha Ganesh for R2
Mr.M.Sathish Kumar for R3

* * * *

ORDER

Challenging the order of dismissing the petitioner's application, filed under Section 173(8) Cr.P.C, for further investigation, the present revision has been filed.

2. The petitioner is a defacto-complainant alleging that there is no proper investigation by the respondent police, after filing the final report, 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. In the 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."

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

4. In the above circumstances, there is no merits in the revision and the Criminal Revision Case is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mrp

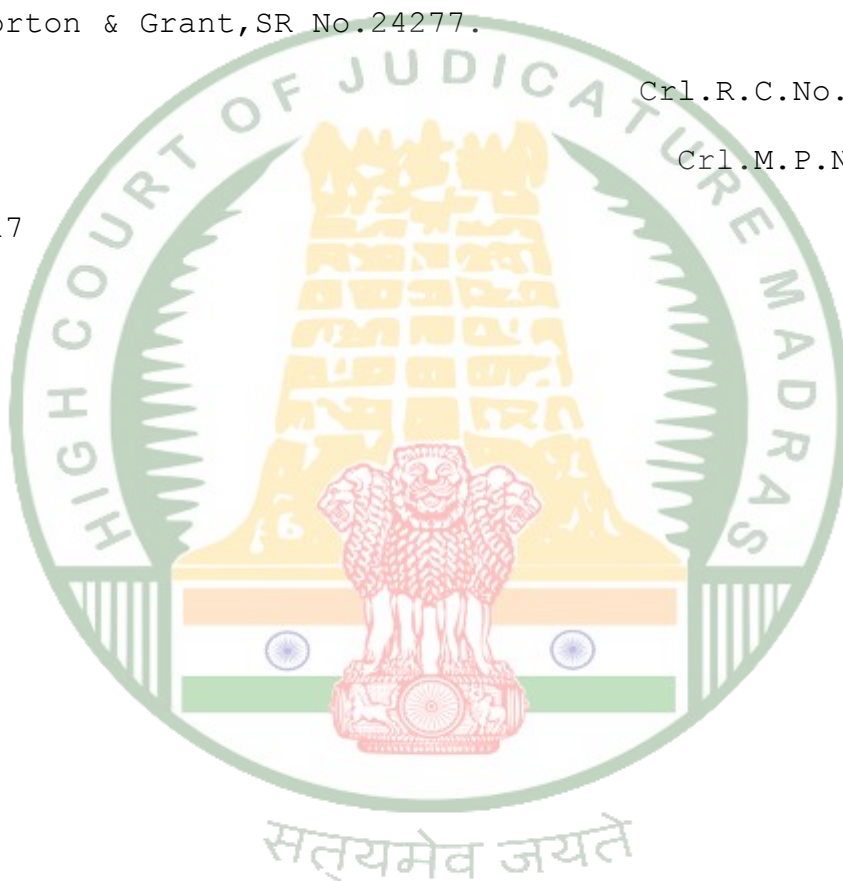
To

1. The XXIII Metropolitan Magistrate,
Saidapet, Chennai.
2. The Inspector of Police,
R5, Virugambakkam Police Station,
Chennai.

+1cc to Norton & Grant, SR No.24277.

Cr1.R.C.No.933 of 2015
and
Cr1.M.P.No.1 of 2015

NR(CO)
CS/22/05/17



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