

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2017

Coram

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

Crl. Revision Case No.995 of 2015

and

Crl.M.P.No.1 of 2015

A. Tamizhazhagan Petitioner/Defacto-complainant

//vs//

1. R. BaranidharanRespondent/Accused A1 to A3

2. N. Ravichandiran

3. B. Mathiyarasi

4. State rep. by

The Inspector of Police,

SHO DCB, Cuddalore,

Crime No.18 of 2012.

.... Respondent/Complainant

Prayer: Criminal Revision Petition filed under Section 397 read with 401 of the Code of Criminal Procedure praying to call for the records in respect of the orders dated 31.07.2015 passed by the Judicial Magistrate No.II, Chidambaram in C.M.P.No.3496 of 2015 in C.C.No.108 of 2013, set aside the same, order in further investigation as requested by the petitioner.

For Petitioner : Mr.A.Thiyagarajan

For Respondent : Mr.R.Ravichandran
Government Advocate
(Crl. Side) for R4

ORDER

Challenging the order of dismissing the petitioner's application, filed under Section 173(8) Cr.P.C, for re-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., sought for further investigation and the court below dismissed the same. Challenging the order, the present revision has been filed.

3. 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.

4. 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.

5. 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.

6. 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/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

mrp

To

1. The Judicial Magistrate No.II,
Chidambaram

2. The Inspector of Police,
SHO DCB, Cuddalore
Crime No. 18/2012.

3. The Public Prosecutor,
High Court, Madras.

+1cc to M/S.A. Thiyagarajan & Balaji, Advocate Sr. 24227

Crl.R.C.No.995 of 2015
and
Crl.M.P.No.1 of 2015

NR(CO)
VR(19/5/2017)



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