



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Monday, the Nineteenth day of June Two Thousand and Seventeen

CORAM

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The Hon`ble Mr Justice P.N.PRAKASH

CRL MP(MD) No.5094 of 2017

IN

CRL OP(MD) No.10550 of 2015

S.DHARMARAJ

... PETITIONER

Vs

1.THE STATE REP.BY ITS
THE INSPECTOR OF POLICE
MEIGNANAPURAM TOWN POLICE STATION,
TUTICORIN DISTRICT.

2.GNANAYUDHAM JOSEPH

3.EBENEZER

4.GUNASEELI

5.THAVASIRANI

... RESPONDENTS

Prayer in CRL MP(MD) No.5094 of 2017

To modify the order passed in Crl.O.P.(MD) No. 10550 of 2015.

Prayer in CRL OP(MD). 10550/ 2015 :

Criminal Original Petition filed under section 482 Cr.P.C to call for the records relating to the impugned FIR IN CRIME NO.235 OF 2014 on the file of the 1st respondent and quash the same.

Order : This petition coming on for hearing on this day, upon perusing the petition and affidavit and material papers of this petition and upon hearing the arguments of Mr.S.T.Sasidharan Tamilkani, Advocate for the petitioner, and Mr.K.Anbarasan, Advocate for the Ist Respondent on behalf of the state, the Court made the following order:-

On the complaint lodged by Dharmaraj, the respondent police registered a case in Crime No.235/2015 on 03.12.2014 under Sections 418, 467, 468, 471 read with 109 IPC against Gnanayutham Joseph (A1), Ebenezer (A2), Gunaseelie (A3), Thavasi Rani (A4) and Saravanan (A5). A1 to A4 filed Crl.O.P.(Md) No.10550 of 2015 for quashing the FIR in Crime No.235/2014. When Crl.O.P.(MD) NO.10550/2015 came up for hearing, it was represented by the learned Government Advocate (Crl. side) that the case in Crime No.235/2014



has been closed as 'Mistake of Fact'. Recording the submission, this Court passed the following order:

"2. When the matter is taken up for hearing, the learned Government Advocate (Crl. side) submitted that the matter is closed as 'Mistake of Fact'.

3. In view of the submissions made by the learned Government Advocate (Crl. side), this criminal original petition is dismissed. Consequently, the connected Miscellaneous Petition is closed."

Now, the de-facto complainant Dharmaraj has filed the present Miscellaneous Petition to modify the order dated 12.06.2015.

2. When the matter was taken up for hearing, the learned Government Advocate (Crl. side) fairly conceded that a wrong representation was made to this Court on 12.06.2015, when Crl.O.P. (MD) No.10550/2015 came up for hearing.

3. The learned Government Advocate submitted that investigation in Crime No.235/2014 was completed and chargesheet was filed against the respondents A1 to A4, deleting Saravanan / Sub Registrar (A5). This chargesheet was filed before the Judicial Magistrate, Sathankulam. Since Saravanan, whose name figured in the FIR was deleted, the learned Judicial Magistrate issued notice to the de-facto complainant to hear him. After hearing the de-facto complainant, the learned Judicial Magistrate has not accepted the final report filed by the police and by order dated 08.03.2017 has ordered further investigation.

4. Therefore, the Investigating Officer is directed to expeditiously conduct further investigation as ordered by the learned Magistrate and file appropriate report before the Judicial Magistrate within three months from the date of receipt of a copy of this order. Liberty is given to A1 to A4 to work out their remedies in the manner known to law.

5. In view of the above observations and direction, this petition is ordered and the earlier order dated 12.06.2015 is hereby recalled.

sd/-

Assistant Registrar (CS-II)

/ TRUE COPY /

Sub-Assistant Registrar

TO



2.The Chief Judicial Magistrate,
Tuticorin.

3.The Inspector of Police,
Meignanapuram Police Station,
Tuticorin District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

RR
AE/KP/SAR1/06.07.2017/3P/5C

ORDER DATED :19/06/2017

MODIFICATION

CRL MP (MD) No.5094 of 2017
IN
CRL OP (MD) No.10550 of 2015