



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 06.03.2017
CORAM

THE HON'BLE MR.JUSTICE P.N.PRAKASH

WEB COPY

Crl.O.P.(MD) Nos.19649/2016, 18640 of 2015, 18970/2015 and
6413/2016

Crl.O.P.(MD) No.19649/2016

M.Raveendran

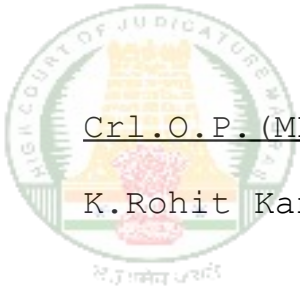
... Petitioner/Petitioner/
Defacto Complainant

-vs-

1. The Superintendent of Police,
Thoothukudi District, Thoothukudi.
2. The Deputy Superintendent of Police,
District Crime Branch, Thoothukudi District
3. The Inspector of Police
District Crime Branch,
Thoothukudi District, Thoothukudi.
4. The Deputy Superintendent of Police
CBCID Wing,
Tirunelveli.
5. The Inspector of Police,
CBCID Wing, Thoothukudi.
6. A.Rajendra ... Respondents/Respondents/Respondents
**(R6 has been impleaded as per the order
of this Court dated 06.03.2017)made in Crl MP(MD)No.1046/2016 in
Crl OP.NO.19649/2016.**
Prayer: Criminal Original Petition filed under Section 482 of
Cr.P.C., praying to set aside the order passed by the learned
Judicial Magistrate No.I, Thoothukudi, Thoothukudi District in
Crl.M.P.No.151 of 2016 in Crime No.59/2014 and consequently direct
the 4th respondent to conduct reinvestigation of the case in Crime
No.59/2014 pending on the file of the 3rd respondent police.

For Petitioner : Mr.R.Anand

For Respondents : Mr.A.P.Balasubramani
Government Advocate (Crl. side)



Crl.O.P.(MD) No.18640/2015

K.Rohit Kandtilal Ravani

... Petitioner/A2

-vs-

1.

1. The Inspector of Police
District Crime Branch,
Tuticorin District, Tuticorin.

...R1/Complainant

2. M.Raveendran

... Respondent No.2/Defacto complainant

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records culminating in FIR IN Crime No. 59 of 2014 on the file of the the first respondent herein and quash the same so far as the petitioner/2nd accused in concerned.

For Petitioner : Mr.S.Deenadayalan

For Respondents : Mr.A.P.Balasubramani
Government Advocate (Crl. side)

Mr.K.Seemaraj for R1

Crl.O.P.(MD) No.18970/2015

A.Rajendra

... Petitioner/A1

-vs-

1. The Inspector of Police,
District Crime Branch,
Tuticorin District, Tuticorin.

...R1/Complainant

2. M.Raveendran

... Respondents No.2/Defacto complainant

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records pertaining to FIR IN Crime No. 59 of 2014 on the file of the the first respondent herein and quash the same so far as the petitioner/1st accused is concerned.

For Petitioner : Mr.S.R.A.Ramachandran

For Respondents : Mr.A.P.Balasubramani
Government Advocate (Crl.side)for R1

Mr.J.Sulthan Basha for R2



Crl.O.P.(MD) No.6413/2016

M.Raveendran

... Petitioner/Complainant

-vs-

1. The Inspector General of Police,
South Zone, Natham Road,
Madurai.
2. The Superintendent of Police,
Thoothukudi District, Thoothukudi.
3. The Deputy Superintendent of Police,
Thoothukudi District, Thoothukudi.(Crime No.59/2014)
4. The Inspector of Police
District Crime Branch,
Thoothukudi District, Thoothukudi.
5. The Deputy Superintendent of Police, (CBCID)
CBCID Wing, NGO Colony,
Near Provident Fund Office,
Tirunelveli Division,
Tirunelveli.

6.A.Rajendra

... Respondents

**(R6 has been impleaded as per the order
of this Court dated 06.03.2017) in Crl MP(MD)No.1045/2017 in Crl
OP.NO. (MD) 6413/2016.**

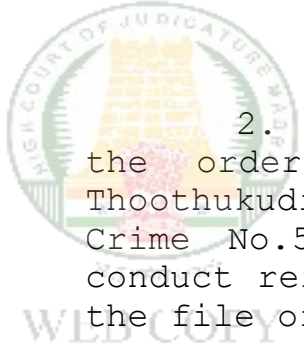
Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to direct the respondent No.2 to order change of investigation in the matter relating to the Crime No.59/2014 on the file of the 3rd respondent and entrust the same to respondent No.5 for investigation of the case by a competent officer and file a final report before the appropriate jurisdictional Magistrate within the time stipulated by this Court.

For Petitioner : Mr.J.Sulthan Basha for Mr.K.Seemaraj

For Respondents : Mr.A.P.Balasubramani
Government Advocate (Crl. side)

COMMON ORDER

Crl.O.P.(MD) Nos.18640 and 18970/2015 have been filed to quash the case in Crime No.59 of 2014 on the file of the the first respondent herein and quash the same so far as the petitioners/accused are concerned.



2. CrI.O.P.(MD) No.19649/2016 has been filed to set aside the order passed by the learned Judicial Magistrate No.I, Thoothukudi, Thoothkudi District in CrI.M.P.No.151 of 2016 in Crime No.59/2014 and consequently direct the 4th respondent to conduct reinvestigation of the case in Crime No.59/2014 pending on the file of the 3rd respondent police.

3. On the complaint lodged by one M.Raveendran, the Inspector of Police, District Crime Branch, Tuticorin, registered a case in Crime No.59/2014 for offences under Section 420 IPC on 26.11.2014 against two persons Rajendra/A1 and Rohit Ganthilal Dhawan/A2.

4. Though this Court granted stay of the investigation in Crime No.59/2014, this Court had passed the following order on 28.10.2015:

"Therefore, the Superintendent of Police, Tuticorin District is directed not to allow the present Investigating Officer to investigate the matter in Crime No.59/2014 on the file of the District Crime Branch, Tuticorin."

5. Since the complainant was not happy in the manner of investigation, he filed CrI.O.P.(MD) No.3308 of 2015, wherein, this Court passed the following order:

"4.Considering the facts and circumstances of the case and also considering the fact that the case has been registered, pursuant to the direction issued by this Court in CrI.O.P.(MD)No.16585 of 2014, as early as on 26.11.2014 and the third respondent is taking steps to call for some particulars from Hong Kong in respect of the value of the purchase and also considering the stage of investigation, I am of the view that instead of transferring the investigation to any other competent officer, it would be suffice to direct the second respondent to nominate anyone of the Deputy Superintendent of Police, under his control, to monitor the investigation done by the third respondent.

5. Accordingly, the second respondent is directed to nominate anyone of the Deputy Superintendent of Police, Thoothukudi District, to monitor the investigation done by the third respondent. The third respondent is also directed to investigate the matter as early as possible and file a final report, within a period of four months from the date of receipt of a copy of this order.

6. The Criminal Original Petition is disposed

the above direction."

<https://hcservices.ecourts.gov.in/hcservices/>



6. It appears that the learned Judge was not informed of the earlier order passed by her in CrI.O.P.(MD) No.3308 of 2015. It is seen that the Deputy Superintendent of Police, District Crime Branch, took up the investigation of the case in Crime No.59/2014 and has filed a closure report before the Judicial Magistrate, No.I, Tuticorin on 07.11.2015. The learned Judicial Magistrate, No.I, Tuticorin, issued notice to the de-facto complainant, pursuant to which, the defacto complainant filed a protest application before the Judicial Magistrate. The learned Judicial Magistrate has passed the final orders on the protest application on 23.03.2016, wherein, he has agreed with the submission of the de-facto complainant, but did not pass any orders on the ground that the petitions to quash the FIRs are pending before this Court in CrI.O.P.(MD) Nos.18970 and 18640/2015. Challenging the order dated 23.03.2016, the de-facto complainant has filed CrI.O.P.(MD) No.19649/2016.

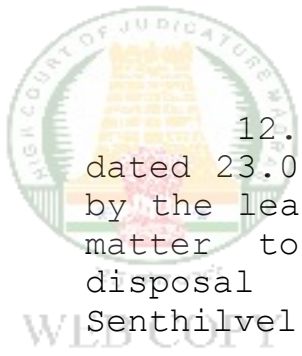
7. Heard both sides.

8. The fact remains that the investigation in Crime No.59/2014 has been completed and a closure report has been filed by the police before the Judicial Magistrate, No.I, Tuticorin. In the light of the above, CrI.O.P.(MD) No.18970/2015 and 18640/2015, in which, FIR in Crime No.59/2014 is under challenge, have become infructuous and therefore, they are closed.

9. Coming to CrI.O.P.(MD) No.19649/2016, this Court perused the impugned order in CrI.M.P.No.151/2016 in Crime No.59/2014 passed by the learned Judicial Magistrate, No.I, Tuticorin on 23.03.2016.

10. On a reading of the order, the learned Judicial Magistrate has observed that the Inspector of Police has proceeded with the investigation despite the interim order dated 28.10.2015 in CrI.O.P.(MD) Nos.18970/2015 and 18640/2015. The learned Judicial Magistrate has further noticed that the Deputy Superintendent of Police, who was directed to monitor the investigation had taken up the investigation himself and had examined only two witnesses, but had relied upon the statements of witnesses recorded by the Inspector of Police and has filed a closure report.

11. It is reported that Ms.Jeya Princess, Inspector of Police, District Crime Branch, whom this Court had by order dated 28.10.2015, in CrI.O.P.(MD) No.18640 and 18970/2015 had directed not to investigate the case, had examined most of the witnesses and thereafter Mr.Senthilvel, Deputy Superintendent of Police, District Crime Branch, who was asked to monitor the investigation <https://hcservices.etools.com.in/hcservices> the investigation from Ms.Jeya Princess and had examined only two witnesses and filed the closure report.



12. Bearing this in mind, this Court sets aside the order dated 23.03.2016 in CrI.M.P.No.151/2016 in Crime No.59/2014 passed by the learned Judicial Magistrate No.I, Tuticorin and remands the matter to the Judicial Magistrate, NO.I, Tuticorin for fresh disposal on the closure report, which has been filed by Senthilvel, Deputy Superintendent of Police.

13. As stated by the Hon'ble Supreme Court in Vinay Tyagi Vs. State of U.P and Others reported in Laws (All)-2010-8-369, the Magistrate has got three options:

- (i) To accept the closure report;
- (ii) To take cognizance of the offences disclosed in the closure report and
- (iii) Order further investigation.

14. In the event of the learned Judicial Magistrate ordering further investigation, this Court is aware that the Magistrate cannot order reinvestigation/fresh investigation. In the event of the Magistrate ordering further investigation, this Court directs the Superintendent of Police to nominate an Officer other than the Ms.Jeya Princess and Mr.Senthilvel to conduct the further investigation in Crime No.59/2014.

15. The Investigating Officer shall conduct further investigation in a fair and thorough manner. With the above directions, CrI.O.P.No.19649/2016 is allowed and the order dated 23.03.2016 in CrI.M.P.No.151/2016 in Crime No.59/2014 is set aside and the matter is remanded to the learned Judicial Magistrate, No.I, Tuticorin for fresh disposal in the aforesaid terms.

CrI.O.P.(MD) No.6413/2016

In view of the order passed in CrI.O.P.(MD) Nos.18970, 18640 of 2015 and 19469 of 2016, CrI.O.P.(MD) No.6413 of 2016 is dismissed as infructuous.

Consequently connected Miscellaneous petitions are closed.

Sd/-

Assitant Registrar(CO)

/True copy/

Sub Assistant Registrar

To

1 The Inspector General Of Police,
South Zone,
Natham Road,
Madurai.



2. The Superintendent of Police,
Thoothukudi District, Thoothukudi.
3. The Deputy Superintendent of Police,
District Crime Branch, Thoothukudi District.
4. The Deputy Superintendent of Police,
CBCID Wing,
Tirunelveli.
5. The Deputy Superintendent of Police,
Thoothukudi District, Thoothukudi.
6. The Inspector of Police
District Crime Branch,
Tuticorin District, Tuticorin.
7. The Inspector of Police,
CBCID Wing, Thoothukudi.
8. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
9. The Deputy Superintendent of Police,
CBCID Wing, NGO Colony,
Near Provident Fund Office,
Tirunelveli District,
Tirunelveli.

+1cc to M/s.R.ANAND, Advocate, in SR No. 13047
+1cc to M/s.S.DEENADHAYALAN, Advocate, in SR No. 13033
+1cc to M/s.K.SEEMARAJ, Advocate, in SR No. 12712
+1cc to M/s.S.R.A.RAMACHANDRAN, Advocate, in SR No. 13034

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Cr1.O.P.(MD)Nos.19649/2016, 18970 AND 18640 of 2016
and 6413/2016
and M.P.No.1 of 2015 in Cr1.O.P.(MD) No.18640/2015
06.03.2017