



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.07.2017

CORAM :

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Crl.R.C(MD) No.499 of 2017

and

Crl MP(MD)Nos.5521 & 5522 of 2017

Muniarasu

... Petitioner

Vs.

The Inspector of Police,
Puthiamputhur Police Station,
Tuticorin District,
Crime No.228 of 2016.

... Respondent

Petition filed under Sections 397 read with 401 Cr.P.C, to call for the records relating to the order dated 08.05.2017 passed in Crl.M.P.No.2125 of 2017 in C.C.No.150 of 2017 by the Judicial Magistrate, No.I, Tuticorin and set aside the same and consequently stop the proceedings in C.C.No.150 of 2017 of the file of the Judicial Magistrate, Thoothukudi and allow the revision petition.

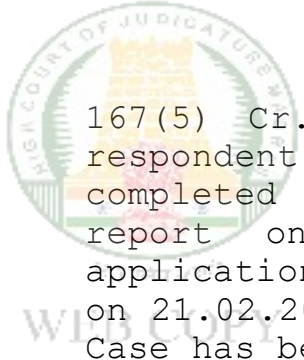
For Petitioner : Mr.M.Subash Babu

For Respondent : Mr.C.Mayilvahana Rajendran
Additional Public Prosecutor

ORDER

Against the order of dismissal passed in the petitioner's application filed under Section 167(5) Cr.P.C., the present Criminal Revision Case has been filed.

2.The petitioner is the accused in C.C.No.150 of 2017 on the file of the Judicial Magistrate, No.I, Tuticorin, in which, he stood charged for the offence under Section 304(A) IPC. The said case was registered against the petitioner on 09.10.2016 and subsequently, he was arrested on 11.10.2016. According to the petitioner, since the offence is under Section 304(A) IPC, it is only a summons case, as per Section 167(5) Cr.P.C., the respondent police should complete investigation within a period of six months from the date of arrest. Even though the petitioner was arrested on 11.10.2016, the respondent did not complete investigation and filed final report within a period of six months. In the above circumstances, the petitioner filed an application under Section



167(5) Cr.P.C., to stop further investigation. Thereafter, the respondent filed a counter affidavit stating that they have completed investigation as early as on 21.02.2017 and filed final report on 21.04.2017. The trial Court has dismissed the application stating that investigation was completed as early as on 21.02.2017. Challenging the same, the present Criminal Revision Case has been filed.

3.I have heard Mr.M.Subash Babu, learned counsel for the petitioner and Mr.C.Mayilvahana Rajendran, learned Additional Public Prosecutor for the respondent and perused the records carefully.

4.The learned counsel for the petitioner would submit that the petitioner has filed an application before the lower Court on 12.04.2017. Thereafter only, the respondent has filed final report on 21.04.2017 claiming that they have completed investigation on 21.02.2017. If at all the respondent completed investigation as early as on 21.02.2017, nothing prevents them from filing final report immediately and only in order to escape from the clutches under Section 167(5) Cr.P.C., they filed the final report on 21.04.2017, immediately after filing the application on 12.04.2017.

5.Per contra, the learned Additional Public Prosecutor would contend that the respondent police has already completed investigation before the expiry of six months and due to some administrative reason, they could not file final report and the same was filed on 21.04.2017. Hence, there is no necessary to pass an order under Section 167(5) Cr.P.C., and the Court below has rightly dismissed the petition.

6.I have carefully considered the rival submissions made on either side.

7.Now investigation has been completed and the respondent has filed the final report on 21.04.2017. Section 167(5) Cr.P.C., reads as follows:

"if investigation could not be completed within a period of six months, the Magistrate shall make an order stopping further investigation, unless the officer making the investigation satisfies the Magistrate that for special reason and in the interests of justice, the continuation of the investigation beyond the period of six months is necessary."

8.In the instant case, as already a final report has been filed under the said circumstances, the present application under Section 167(5) Cr.P.C., cannot be considered. The trial Court after considering above said facts has rightly dismissed the



petition. Hence, I find no illegality or irregularity in the order passed by the Court below.

9. In fine, this Criminal Revision Case is dismissed. Consequently, CrI.MP(MD)Nos.5521 & 5522 of 2017 are closed.

Sd/-

Assistant Registrar(CS-II)

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Sub Assistant Registrar.

To

1. The Judicial Magistrate, No.I, Tuticoroin

2. The Inspector of Police,
Puthiamputhur Police Station,
Tuticorin District,

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

+1CC to Mr.M.Subash Babu, Advocate, SR.No. 64825

CrI.R.C(MD) No.499 of 2017
and

CrI MP(MD)Nos.5521 & 5522 of 2017
11.07.2017

mj

AM/JC/SAR 1/24.07.2017/3P/5C