



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.05.2017

CORAM:

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

Crl.O.P.(MD)No.7389 of 2016

A.Louis Immanuvel

... Petitioner

Vs.

State represented by,
The Inspector of Police,
Nagamalai Pudukkottai Police Station,
Madurai District.
In Crime No.451 of 2013

... Respondent

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to set aside the order passed in R.C.S.No 683 of 2014 dated 02.12.2014 on the file of Judicial Magistrate No.VI, Madurai.

For Petitioner : Mr.R.Pon Karthikeyan
For Respondent : Mr.K.Anbarasan
Govt. Advocate(Crl Side)

O R D E R

On the complaint alleged by the petitioner, the respondent police registered a case in Crime No.451 of 2013 on 08.12.2013 under Section 419, 465, 471,120-B IPC. against four accused. While so, since there was no progress in the investigation, the petitioner filed Crl.O.P.(MD) No.4566 of 2016 for a direction to the respondent police to complete the investigation in Crime No.451 of 2013 in a time bound manner. When Crl.O.P.(MD)No.4566 of 2016 came up for hearing before this Court on 13.04.2016, this Court passed the following order.

"2. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) appearing for the State.

3. It is seen that on the complaint given by this petitioner, the respondent police registered a case in crime No.451 of 2013 on 02.12.2013 under Sections 419, 465, 471 and 120(b) IPC against four accused. Today, when the matter was taken up for hearing, learned counsel for the petitioner brought to the notice of this Court that learned Judicial Magistrate No.VI, Madurai has closed the FIR in Crime No.451 of 2013 on 02.12.2014 by passing the following order:



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"The above FIR is long pending before this Court for long time without any progress for filing charge sheet against the accused. FIR received this Court on 12.12.13. Already intimate the concern SHO any objection and charge sheet filed on or before 02.12.14. Otherwise the FIR closed U/s.167(5) Crpc. But till date no steps to taken. Hence the FIR is closed U/s.165(5) Cr.P.C. give RCS No.683/14."

4. This court is indeed surprised as to how learned Magistrate shall close the prosecution for offences under Sections 419, 465, 471 and 120(b) IPC, which are not summons cases, but warrant cases. The provisions of Section 167(5) Cr.P.C. Will not apply to prosecution of the aforesaid sections.

5. Hence, this petition is closed with liberty to the petitioner to challenge the order dated 02.12.2014 passed by the learned Judicial Magistrate No.VI, Madurai in accordance with law."

2. In view of the above observation, the petitioner/defacto complainant has filed the present petition. In the considered opinion of this Court, learned Judicial Magistrate No.VI, Madurai ought not to have closed the FIR in Crime No.415 of 2013 under Section 167(5) Cr.P.C., inasmuch as the allegations in the FIR relate to the offences under Sections 419, 465, 471, 120-B IPC and do not relate to summons case.

3. Hence, this petition is allowed and the order dated 02.12.2014 passed by the learned Judicial Magistrate No.VI, Madurai in R.C.S.No.683 of 2014 is set aside. The respondent police is directed to proceed with the investigation in accordance with law expeditiously and either file a closure report or a charge sheet, as the case may be under due intimation to the petitioner/defacto complainant.

4. In this petition, it is not necessary to issue any notice to the accused, because, the order under challenge has been passed by the learned Magistrate without hearing either party and further, the order is per se unsustainable. However, the respondent police is directed to conduct a thorough and fair investigation and during investigation, if it is found that the accused are innocent, it is needless to state that a closure report shall be filed by the police and if the Police find that there are sufficient materials to prosecute the accused, then a charge sheet can be filed.

Sd/-

Assistant Registrar(A.S)

/True Copy/



1. The Judicial Magistrate No.VI,
Madurai.

2. The Inspector of Police,
Nagamalai Pudukkottai Police Station,
Madurai District.

3. The Additional Public Prosecutor,
Madurai Bench of Madras HighCourt,
Madurai.

+1cc to Mr. R.PONKARTHIKEYAN, Advocate, SR.No.55525

Cr1.O.P. (MD) No.7389 of 2016
03.05.2017

SDS/JC/SAR 3/11.05.2017/3P/5C