



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.07.2017

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THE HONOURABLE **MR. JUSTICE V. BHARATHIDASAN**

Cr1.R.C(MD)No.366 of 2016

Arunachalapandian

.. Petitioner/Defacto complainant
Vs.

The Inspector of Police
Pavoorchatram Police Station
Tenkasi Taluk,
Tirunelveli Taluk,
Tirunelveli District,
Crime No.254 of 2013.

.. Respondent/Complainant

Criminal Revision Case is filed under section 397 r/w 401 of Cr.P.C against the order dated 10.05.2016 passed in R.C.S.No.20 of 2016 in Crime No.254/2013 by the Judicial Magistrate Court, Tenkasi.

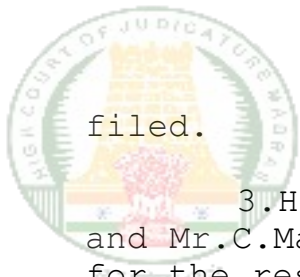
For Petitioner : Mr.S.Loganathan

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

ORDER

The impugned order passed in R.C.S.No.20 of 2016 by the Judicial Magistrate Court, Tenkasi is being challenged in the present Criminal Revision Case.

2.The revision petitioner/defacto complainant has lodged a complaint before the respondent police for the offences under Sections 143, 149, 166, 167, 193, 379 (NH), 409, 448, 468, 474 and 506(ii) r/w 34 IPC. Based on the said complaint, a case has been registered in Crime No.254 of 2013 on the file of the Pavoorchatram Police Station. After investigation, the respondent police has filed a negative final report. Before filing the final report, the respondent police has issued notice to the petitioner and after receipt of the said notice, the petitioner has filed a protest petition and the same was returned on the ground that correct crime number has not been mentioned in the protest petition. Subsequently, after filing final report, notice was issued to the petitioner/defacto complainant to appear before the Court on 10.05.2016. Since the petitioner met with an accident, he could not appear before the Court on the said date. Hence, the Court below has accepted the final report, as no objection has been raised. Challenging the same, the present Criminal Revision Case has been



filed.

3. Heard Mr.S.Loganathan, learned counsel for the petitioner and Mr.C.Mayilvahan Rajendran, learned Additional Public Prosecutor for the respondent.

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4. The learned counsel appearing for the petitioner submitted that after receipt of the notice from the respondent, the defacto complainant has filed a protest petition and the same was wrongly returned by the Court on the ground that the crime number mentioned therein was not correct. Subsequent to the filing of final report, notice has been issued to the petitioner to appear before the Court on 10.05.2016. Since he met with an accident, he could not appear before the Court on that date. Therefore, the Court below has accepted the negative final report filed by the respondent police.

5. *Per contra*, the learned Additional Public Prosecutor contended that the Court below after following the procedures contemplated under law has issued notice to the petitioner. Despite receipt of the notice, the petitioner has failed to appear before the Court. Hence, the Court has left with no other option to accept the final report filed by the respondent police.

6. I have considered the submissions made by the learned counsel for the petitioner as well as the Additional Public Prosecutor for the respondent.

7. The Court below has issued notice to the petitioner to appear before the Court for enquiry. But due to unavoidable circumstances, he could not appear before the Court and therefore, even without giving an opportunity of hearing to the petitioner, the impugned order has been passed. Therefore, the impugned order passed by the Court below is liable to be set aside.

8. In fine, this Criminal Revision Case is allowed. The impugned order dated 10.05.2016 passed in R.C.S.No.20 of 2016 by the Judicial Magistrate Court, Tenkasi is set aside and the Court below is directed to issue fresh notice to the petitioner taking into consideration the fact that the petitioner has already filed a protest petition and it has been returned for various reasons. The Court below is also directed to give an opportunity to the petitioner to file a fresh protest petition. On such filing of the protest petition, the Court below shall consider the matter afresh and pass orders on merits and in accordance with law.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar



To

1.The Inspector of Police
Pavoorchatram Police Station
Tenkasi Taluk,
Tirunelveli District,

2.The Judicial Magistrate Court, Tenkasi

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

MJ

JS/JC/SAR.1/5.7.2017/3P-4C

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