

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.07.2018

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THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.1669 of 2018

A.Seenuvasan ... Petitioner/Defacto complainant

Vs

The Inspector of Police,  
District Crime Branch,  
Villupuram. ....Respondent/complainant

prayer:Criminal Original Petition filed under Section 482 Cr.P.C., to direct the respondent to conduct further investigation in crime No.14/2013 C.C.No.680 of 2014 on the file of Judicial Magistrate No.I, Villupuram.

For Petitioner : Mr.V.Murugesan  
For Respondent : Mr.C.Raghavan, GA

O R D E R

On the complaint lodged by the petitioner, the respondent Police registered a case in Crime No.14 of 2013 and after completing the investigation, have filed a charge sheet in C.C.No.680 of 2014 under Section 406, 420 and 417 IPC against one Kannan (A1) and Mahalakshmi (A2). It is the case of the petitioner that the petitioner and one Johnson and Raj are goldsmiths by profession; that the accused approached them to make some gold ornaments and accordingly, they made gold ornaments to the accused and handed them over on 14.04.2012; that the accused obtained gold ornaments and did not make any payment to them. Hence, the FIR and Charge Sheet. While so, the de facto complainant/petitioner has filed the present petition for further investigation.

2.Mr.Murugesan, learned counsel appearing for the petitioner submitted that the gold ornaments have not been recovered by the Police and therefore, the prosecution case would fail. Hence, he submitted that this Court should order further investigation to recover the gold ornaments.

3.Per contra, learned Government Advocate refuted the contentions .

4.This Court gave its anxious consideration to the rival submissions. Had the police recovered the gold ornaments, it would have strengthened the prosecution case. However, just because the police were not able to recover the gold ornaments, it will not mean that the prosecution case will stand diminished. For example, after committing a murder, if the murderer completely destroys the dead body by dumping it in the mid sea and that the police are not able to recover the dead body, can he be acquitted? The answer is an emphatic "No".

5.Applying the same logic, just because the police failed to recover the gold ornaments, that by itself cannot be a reason for the prosecution to fail. If the prosecution is able to satisfactorily establish through other evidences about the culpability of the accused, criminal liability can be fastened de hors the absence of the corpus delicti. Under such circumstances this is not a fit case to order further investigation. However, the trial court is directed to complete the trial within a period of six months from the date of receipt of a copy of this order, provided there is no any legal impediment.

With the above direction, this petition is closed.

gya

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

सत्यमेव जयते

To

1.Judicial Magistrate No.I,  
Villupuram.

2.The Inspector of Police,  
District Crime Branch,  
Villupuram.

3.The Public Prosecutor,  
High Court, Madras.

CRL.O.P.No.1669 of 2018

MR (CO)  
ASK (10/08/2018)