

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :02.08.2018

CORAM

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

Crl.O.P.No.19300 of 2018

M.Indiraganthi

...Petitioner

vs

The State Rep. by
The Station House Officer
F4, Kiliyanur Police Station
Villupuram District.

... Respondent

Criminal Original Petition has been filed under Section 482 Cr.P.C seeking a direction to the respondent police to investigate further in Crime No.435 of 2010 in C.C.No.19 of 2017 on the file of the Chief Judicial Magistrate Court, Villupuram.

For Petitioner : Mr.D.Gopinathan

For Respondent : Mr.C.Raghavan,
Government Advocate (Crl. Side)

O R D E R

This Criminal Original Petition has been filed seeking a direction to the respondent police to investigate further in Crime No.435 of 2010 in C.C.No.19 of 2017 on the file of the Chief Judicial Magistrate Court, Villupuram.

2. The petitioner is the de facto complainant in C.C.No.19 of 2017 pending on the file of the Chief Judicial Magistrate Court, Villupuram. It appears that the Assistant Public Prosecutor, in-charge of the case had filed CMP.No.1208 of 2017 under Section 173(8) Cr.P.C. for further investigation and the same was dismissed by the trial Court on 30.01.2018 on the following ground:

"This Court relies upon authority of Hon'ble Supreme Court reported CDJ 2017 SC 108 I Amrubtai Sharbhubtai Patel Vs. Sumabhai Kantibbai Patel and others dated 2.2.2017, wherein, it has been held that Investigation Officer can only request for further investigation placing reliance upon above authority this Court is of view, that only

Investigating Officer alone can file petition for further investigation and Additional Public Prosecutor cannot ask for further investigation."

3. Under such circumstances, the de facto complainant is before this Court.

4. As rightly held by the trial Court, the de facto complainant cannot seek further investigation under Section 173 (8) Cr.P.C. in the light of law laid down by the Supreme Court in Amrubtai case (supra). However, the trial Court has given liberty to the Investigating Officer to file an application for further investigation with sound reason. It is not known whether the Investigating Officer has filed the application for further investigation. This Court, under Section 482 Cr.P.C. cannot issue a direction to the Investigating Officer to file such an application since investigation is an exclusive work of the police and this Court also cannot issue a direction to the police as to how they should investigate. However, this Court directs the Investigating Officer to go through the records and if he is satisfied that further investigation is necessary, he shall file the application within one month from the date of receipt of a copy of this order.

With the above directions, this petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

mk

To

1. The Chief Judicial Magistrate,
Villupuram.

2. The Station House Officer
F4, Kiliyanur Police Station
Villupuram District.

3. The Public Prosecutor
High Court, Madras.

+2cc to Mr.D.Gopinathan, Advocate sr.no.53500

CrI.O.P.No.19300 of 2018

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