

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2018

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Cr1.O.P.No.28767 of 2018

and

Cr1.M.P.No.16791 of 2018

- 1.Jamal Mohamed
- 2.Meerjahan
- 3.Abdul Kareem
- 4.Abbas
- 5.Mohideen
- 6.Kabeer
- 7.Thasthahir
- 8.Mohamed Sulthan
- 9.Hayath Basha
- 10.Yusuf
- 11.Abdul Kareem
- 12.Sulaiman
- 13.Abdul Gafoor
- 14.Jahir Hussain
- 15.Nasar
- 16.Kuppusamy
- 17.Hussain
- 18.Kareemulla
- 19.Ghouse Basha
- 20.Syed Ali
- 21.Javeed
- 22.Bashir Ali
- 23.Adam Mohideen

...Petitioners/Accused 1 to 23

Vs.

The State rep, by
The Inspector of Police,
G-5, Kilpauk Police Station,
Chennai-600 010.
Cr.No.910/2017

....Respondent/Complainant

PRAYER:

Criminal Original Petition filed under Section 482 of the Cr.P.C., to call for the records and to quash the final report in C.C.No.8014/2017 dated 04.10.2017 on the file of the learned Metropolitan Magistrate-II, Egmore, Chennai.

For Petitioners : Mr.A.Raja Mohamed

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

O R D E R

This petition has been filed seeking to quash the proceedings in C.C.No.8014/2017, pending on the file of the learned Metropolitan Magistrate-II, Egmore, Chennai.

2 The learned counsel for the petitioners would submit that the FIR was registered for the offences under Section 143 and 188 IPC against the petitioners. After the completion of the investigation a final report has now been filed for the offence under Section 143 IPC r/w Section 7(1)(a) of Criminal Law Amendment Act, 1932 and Section 41(6)(c)(i)(ii) Chennai City Police Act, 1888. The learned counsel would submit that the allegations made in the final report do not make out an offence, for which the final report has been filed. The learned counsel would further submit that the complainant and the investigator is the same police officer and therefore, the entire investigation is vitiated. In order to substantiate his submission, the learned counsel for the petitioner relied upon the judgment of the Hon'ble Supreme Court in Mohanlal Vs. State of Punjab reported in 2018 SCC online SC 974.

3 It is seen from the records that the person, who registered the complaint and person who has conducted the investigation is the same police officer. The Hon'ble Supreme Court in the judgment referred supra has categorically held that the informant and investigator should not be the same person and if the same person is involved, it vitiates the entire investigation. The above judgment squarely applies to the facts of the present case. Therefore, the proceedings before the Court below has to be interfered with by this Court in exercise of its jurisdiction under Section 482 of Cr.P.C.

4 In the result, this Criminal Original Petition is allowed. Accordingly, C.C.No.8014/2017, on the file of the learned Metropolitan Magistrate-II, Egmore, Chennai is hereby quashed. Consequently, the connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

rpl

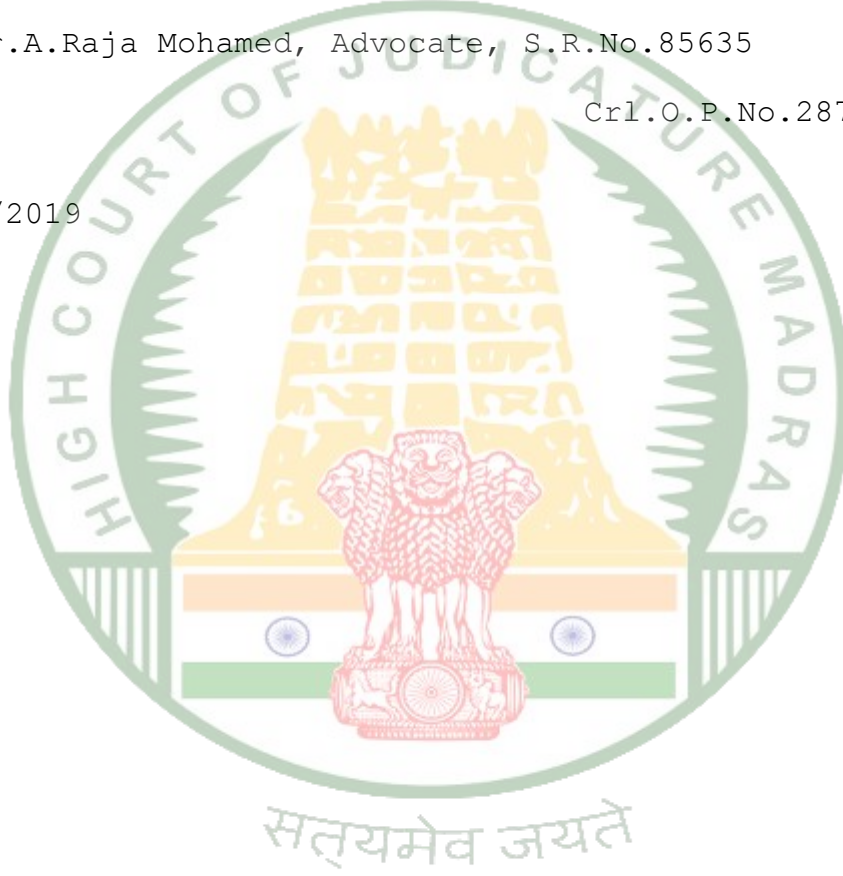
To

1. The Chief Metropolitan Magistrate, Egmore, Chennai.
2. The Metropolitan Magistrate-II, Egmore, Chennai.
3. The Inspector of Police,
G-5, Kilpauk Police Station,
Chennai-600 010.
4. The Public Prosecutor,
High Court, Madras.

+2cc to Mr.A.Raja Mohamed, Advocate, S.R.No.85635

CrI.O.P.No.28767 of 2018

EV(CO)
CS/08/01/2019



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