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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 07.06.2018

DELIVERED ON : 29.06.2018

CORAM :

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl.R.C.(MD) No.246 of 2018

and

Crl.M.P.(MD) No.3241 of 2018

P.Mahendran

... Petitioner

vs.

1.The State represented by,
The Deputy Superintendent of Police,
Orathanadu Sub-Division,
Thanjavur Distirct.

2.Suresh

3.Veeramani

4.Nargunan

... Respondents

Prayer:- Criminal Revision Petition filed under Sections 397 r/w. 401 of the Code of Criminal Procedure, 1973, to call for the records connected with the order in Crl.M.P.No.1909 of 2017 in S.S.C.No.71 of 2017 dated 17.11.2017 on the file of the learned I Additional District and Sessions Judge (P.C.R.), Thanjavur and set aside the same, consequently pleased to direct for re investigation by a Deputy Superintendent of Police relating to the case in S.C.C.No.71 of 2017 on the file of the learned I Additional District and Sessions Judge (P.C.R.), Thanjavur.

For Petitioner	: Mr.Vijai Boominathan
For Respondent No.1	: Mr.K.Suyambulinga Bharathi
	Government Advocate (Crl. Side)

ORDER

Heard Mr.Vijai Boominathan, learned counsel appearing for the petitioner and Mr.K.Suyambulinga Bharathi, learned Government Advocate (Crl.Side) appearing for the first respondent.



on the file of the learned I Additional District and Sessions Judge (P.C.R.), Thanjavur and consequently to direct for re investigation by a Deputy Superintendent of Police relating to the case in S.C.C.No.71 of 2017 on the file of the learned I Additional District and Sessions Judge (P.C.R.), Thanjavur.

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3.On the side of the petitioner, it is stated that the defacto complainant has stated that on 29.05.2015 the accused Suresh S/o Thangarasu, Veeramani S/o. Thanikodi, Sitharthan S/o. Mayandi, Senthil, Praveen S/o. Ramakrishnan, Subramaniyan S/o. Govindasamy and Manimuthu S/o. Selvaraj have abused him in public place and damaged the things and he gave a complaint before the respondent police under Sections 147, 148, 294(b), 323, 506(i), 379 of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Woman Act and Section 3(1) of TNPPDL Act r/w. Section 3(1)(X) of the Scheduled Caste and the Scheduled Tribe (Prevention of Atrocities) Amendment Act, 2015.

4.On the side of the petitioner, it is further stated that the petitioner and his father gave statement before the Investigating Officer. They signed a blank paper. In the beginning the defacto complainant and his father refused, however, the Investigating Officer insisted them to sign the paper and they signed the blank papers atlast. The Investigating Officer has not written the facts as stated by the witness but to their shock and surprise, he acted in favour of the accused and with intention to escape the accused from the case, he has written the statements according to his whims and fancies. Further he has suppressed the incidents happened in his house and created all the false documents. When the Investigating Officer has examined them, he and Padbanaban were taking treatment at Medical College Hospital, Thanjavur. However, he has written in the statement that they have no external injuries and they have not gone to the hospital for treatment. Further in the complaint, he has complained that a Samsung 1900 cellphone worth Rs.62,000/- (Rupees Sixty Two Thousand only) was stolen by the accused. He has further suppressed the fact that damages caused to his house and other household articles worth about Rs.50,000/- (Rupees Fifty Thousand only). Hence, he prayed to set aside the order passed by the lower Court and to direct to re-investigate the case by some other Deputy Superintendent of Police.

5.On the side of the respondents 2 to 4, it is stated that the petition filed by the defacto complainant is not maintainable either in law or on facts and to be dismissed Section 173(8) of Cr.P.C., gives power to the Investigation Officer to conduct further investigation if any new facts came to light after filing of final report or before taking cognizance. In this case, final report has already been filed and cognizance has been taken and the accused also appeared before the trial Court. Hence, the



petition under Section 173(8) of Cr.P.C., is not maintainable.

6. On the side of the prosecution, it is stated that the petitioner lodged a complaint before the respondent police against 7 named accused and 33 unnamed accused. The investigation reveals only six persons and that the Deputy Superintendent of Police investigated the case and in the investigation, the petitioner has not stated anything against the respondents 2 and 3. The investigation reveals that an offence is made out only against the fourth respondent. Chargesheet was filed against the fourth accused.

7. On the side of the petitioner, it is stated that the main accused one Subramanian was left out by the Police without giving notice to the petitioner. The offence under Section 3(1) TANPID Act is not included in the chargesheet.

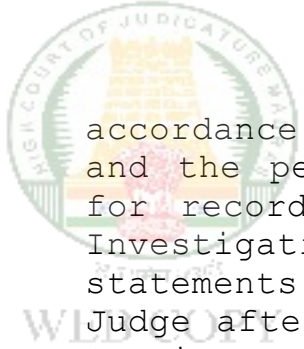
8. On the side of the respondents, it is stated that FIR is an exaggerated one and during investigation no offence is made out against the Subramanian and the name of Subramanian is not impleaded as a respondent in this petition. A perusal of the records reveals that one Subramanian is not impleaded as a respondent in this petition.

9. The name of the fourth respondent is not stated in the FIR. The other allegation of the petitioner is that the Investigating Officer failed to record 161 statement as narrated by the petitioner and his father and the Investigating Officer obtained their signature in blank paper. There is no necessity for the Investigating Officer to get the signature of the persons in the statements recorded under Section 161 of Cr.P.C.

10. The third allegation is that the Investigating Officer failed to mention the damages caused to the gates of the house and damage to other household articles and cellphone in the charge sheet. On the side of the respondent, it is stated that the complaint is exaggerated one and no such damages are not caused by the accused.

11. The fourth allegation of the petitioner is that the Investigating Officer suppressed the fact that the petitioner and his father undertook treatment in the hospital. No documents is filed on the side of the petitioner to prove that the petitioner and his father took treatment as patient in the hospital.

12. The name of the fourth respondent is not stated in the FIR. The name of Subramanian is stated in the FIR but the petitioner failed to implead Subramanian as one of the respondent. The contention of the petitioner is that the Investigating Officer has recorded 161 statement not as stated by the petitioner but in



accordance with the whims and facies of the Investigation Officer and the petitioner and his father were made to sign blank paper for recording the 161 statement. There is no necessity for the Investigating Agency to get the signature of the witness in the statements recorded under Section 161 of Cr.P.C. If the trial Judge after examination of the witness find that an offence under Section TNPPDL Act is made out, the trial Judge may frame additional charges under the said Act at any stage of the trial.

13. For the above reasons, there is no sufficient reason to interfere with the impugned order passed by the trial Court. This Criminal Revision Case is dismissed. Consequently, Crl.M.P.(MD) No.3241 of 2018 is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The I Additional District and Sessions Judge (P.C.R.),
Thanjavur.
2. The Deputy Superintendent of Police,
Orathanadu Sub-Division,
Thanjavur District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

MRN

DS/SKN-RSK/SAR-1 :17.07.2018: 4P/4C

Crl.R.C.(MD) No.246 of 2018
29.06.2018