

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 02.01.2018****CORAM:****THE HONOURABLE MR. JUSTICE P.N.PRAKASH****Cr1.R.C. (MD) No.955 of 2017**

M.Kannan

... Petitioner / Petitioner /
De facto Complainant

vs.

1.The Inspector of Police
Town Police Station
Tirunelveli
Tirunelveli District
(Crime No.59 of 2015)

2.Maniganesh Pattar
S/o.Rajamani
Arulmigu Swamy Nellaiyappar - Ganthimathi
Ambal Thirukovil, Tirunelveli Town
Tirunelveli

3.Pacekar
S/o.Murugesan
Arulmigu Swamy Nellaiyappar - Ganthimathi
Ambal Thirukovil, Tirunelveli Town
Tirunelveli

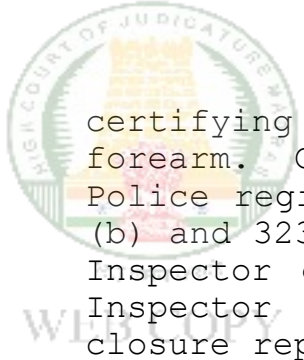
... Respondents / Respondents

PRAYER: Criminal original petition filed, under Section 397 r/w 401 Cr.P.C., to call for the records in Cr.M.P.No.6292 of 2017 in Crime No.59 of 2015, dated 24.10.2017, on the file of the Judicial Magistrate No.IV, Tirunelveli, and to set aside the same.

For Petitioner : Mr.J.Ashok

For Respondents : Mr.C.Mayilvahana Rajendran
Additional Public Prosecutor for R1**O R D E R**

The petitioner got himself admitted to Tirunelveli Medical College Hospital on 21.01.2015, at 12.25 a.m, and when he was examined by the Doctor, he stated that he was assaulted by a known person on 20.01.2015 at 11.30 p.m. This has been recorded by the Doctor in the accident register issued by her. After completion of medical examination, the Doctor issued a wound certificate



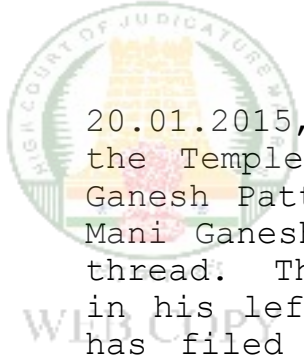
certifying that the petitioner suffered abrasions in his left forearm. On the complaint given by the petitioner, the respondent - Police registered a case in Crime No.59 of 2015, under Sections 294 (b) and 323 I.P.C., and the investigation was taken over by the Sub-Inspector of Police. After completion of investigation, the Sub-Inspector of Police, Town Police Station, Tirunelveli, filed a closure report closing the case in Crime No.59 of 2015 as mistake of fact. Challenging the same, the petitioner filed a protest application in Cr.M.P.No.4616 of 2016, before the learned Judicial Magistrate No.IV, Tirunelveli, who by order dated 22.09.2016, ordered further investigation by the Inspector of Police. Accordingly, the Inspector of Police, Town Police Station, Tirunelveli, conducted investigation in Crime No.59 of 2015 and filed a closure report giving detailed reasons in support of his conclusion. On notice of the same, the petitioner filed another protest application in Cr.M.P.No.6292 of 2017 and the learned Judicial Magistrate No.IV, Tirunelveli, after hearing both sides and perusing the records, by order dated 24.10.2017, dismissed the protest application and accepted the closure report filed by the Inspector of Police. Challenging the same, the petitioner is before this Court.

2. Heard the learned counsel for the petitioner.

3. The learned counsel for the petitioner submitted that the respondent - Police had conducted a perfunctory investigation and not properly examined the necessary witnesses. Therefore, the learned counsel for the petitioner submitted that the order of the Trial Court accepting the closure report filed by the respondent - Police deserves to be set aside.

4. This Court anxiously considered the submissions of the learned counsel for the petitioner and also perused the materials available on record.

5. This Court cannot direct the Police to form a particular opinion in a case. In other words, it is beyond the jurisdiction of the Court to direct the Police to file a charge sheet giving particular opinion. This Court can only see whether the order of the Magistrate accepting the final report is perverse on its face. It is seen that the Inspector of Police, in the final report filed by him, stated that the petitioner has given conflicting and contradictory statements with regard to the alleged incident. Further, it is seen that for the incident that is said to have been taken place at 11.30 p.m., on 20.01.2015, the petitioner has got himself admitted to the Hospital only at 12.25 a.m., on 21.01.2015. At the time of admission, the petitioner told Dr.Asmi, who examined him, that he was assaulted by a known person. Whereas, in the complaint given by the petitioner to the Police, he has stated that on 20.01.2015, around 16.30 hours, he was assaulted by one Mani Ganesh Patter and Murugesan at the entrance of the Nellaiyappar Temple. However, in the protest application, he has stated that on



20.01.2015, around 11.30 p.m., when he was discharging his duties in the Temple as "Odhuvar", he was assaulted by Murugesan and Mani Ganesh Pattar. The petitioner has also alleged that Murugesan and Mani Ganesh Pattar assaulted him indiscriminately and cut his holy thread. The petitioner has further stated that he suffered injuries in his left cheek and left forearm. In this case, the petitioner has filed two protest applications giving two different versions about the incident. Therefore, the Trial Court, even without going into the statements recorded by the respondent - Police, found that the petitioner has given inconsistent version about the incident. In such view of the matter, the impugned order of the Trial Court accepting the closure report filed by the Inspector of Police, Town Police Station, Tirunelveli, cannot be said to be perverse and it does not warrant interference from this Court.

6. In the result, the criminal revision is devoid of merits and it is dismissed.

Sd/-

Assistant Registrar (T & P)

/True Copy/

Sub Assistant Registrar

To:

- 1.The Judicial Magistrate No.IV,
Tirunelveli.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 3.The Inspector of Police,
Town Police Station,
Tirunelveli,
Tirunelveli District.

+1cc to M/S.J.ASHOK, Advocate SR.No.40037.

CrI.R.C.(MD) No.955 of 2017
02.01.2018

krk

SDS/SV:MMS/SAR 3/17.01.2018/3P/5C