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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATE : 21.08.2018

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.R.C.(MD)No.442 of 2018
and
Crl.M.P.[MD].No.6242 of 2018

S.Ravikumar

... Petitioner

Vs.

1.The Superintendent of Police,
Office of the Superintendent of Police,
Thoothukudi District.

2.The Inspector of Police,
Meignanapuram Police Station,
Thoothukudi District.

... Respondents

PRAYER: Criminal Revision Petition is filed under Section 397 r/w 401 and 482 of Cr.P.C., to call for the records and set aside the order of the learned Assistant Sessions Judge, Tiruchendur, Thoothukudi District dated 26.04.2017 in Crl.M.P.No.14 of 2017 in S.C.No.308 of 2015.

For Petitioner

: Mr.T.Lajapathi Roy
for Mr.V.Rajiv Rufus

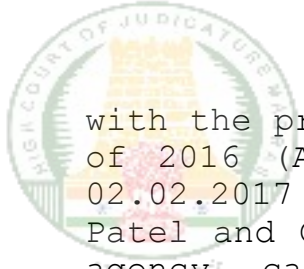
For Respondent

: Mr.A.Robinson
Government Advocate (Crl. Side)

ORDER

This Revision Petition is filed against the order passed by the learned Assistant Sessions Judge, Tiruchendur, Thoothukudi District dated 26.04.2017 in Crl.M.P.No.14 of 2017 in S.C.No.308 of 2015, dismissing the petition filed by the de-facto complainant seeking further investigation under Section 173(8) of the Code of Criminal Procedure.

<https://hcservices.ecourts.gov.in/hcservices/>
2. The Trial Court, after considering the averment made by the petitioner/de-facto complainant, has dismissed the petition, on the ground that the right to seek further investigation is not vested



with the private parties. The Hon'ble Supreme Court in CrI.A.No.1171 of 2016 (Arising out of S.L.P.(Criminal) No.3338 of 2015), dated 02.02.2017 in Amrutbhai Shambhubhai Patel Vs. Sumanbhai Kantibhai Patel and Others has categorically held that only the investigation agency can seek the permission of the Court for further investigation after filing final report and such a right is not vested with any other person. Following the said judgment, the Trial Court has declined to entertain the petition filed by the de-facto complainant. This Court could not find any error in the said finding. However, while going through the facts of the case, this Court could see that the investigation done does not inspire the confidence of this Court to say that it was done fair and impartially. The reason to arrive at such conclusion is that the de-facto complainant, in his complaint dated 06.02.2013, has specifically stated that on 06.02.2013, at about 09.30 a.m, when he was returning from Anitha Kumaran Matriculation School, dropping his son near Ananth Computer Centre, three identifiable persons came in a bike overtook and restrained him from proceeding further and a person, who was sitting in the middle of the bike attacked the victim on his head with an iron rod causing blood injury and fled away from the scene of occurrence. He has mentioned the names of Gnanaraj Koilpillai, Arul, John Baskar @ Mani and Kavaskar as person whom he suspect to have instigated the assailants.

3. The petitioner, in his complaint, has stated that he suspects that on account of previous quarrel between him and the above said four persons, they would have arranged the three identifiable persons. The statement under Section 161 of the Code of Criminal Procedure, alleged to have been recorded by the Inspector of Police, Meignanapuram Police Station, from the de-facto complainant-Ravikumar appears as if he was attacked by Kavaskar, John Baskar @ Mani and Rajasingh Nesakumar which is totally in contrary to the complaint given by the petitioner herein.

4. It is the submitted by the learned counsel for the revision petitioner that contrary to the complaint given by the petitioner, the investigating officer has recorded statement under Section 161 of the Code of Criminal Procedure, so as to diluted the investigation, which will ultimately end in acquittal of the real accused.

5. This Court find force in the submission made by the learned counsel for the revision petitioner. Considering the above aspect, to meet the ends of justice, this Court, invoking its inherent power under Section 482 of the Code of Criminal Procedure, direct the Superintendent of Police, Thoothukudi District to entrust the investigation to a competent officer not below the rank of Deputy Superintendent of Police to investigate the case and file a fresh final report within three months from the date of receipt of copy of this order.



6. Accordingly, the Criminal Revision Petition is disposed of. Consequently, connected miscellaneous petition is closed.

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/True Copy/

Sd/-

Assistant Registrar(W)

Sub Assistant Registrar(CS-I)

To

1.The Assistant Sessions Judge,
Tiruchendur, Thoothukudi District.

2.The Superintendent of Police,
Office of the Superintendent of Police,
Thoothukudi District.

3.The Inspector of Police,
Meignanapuram Police Station,
Thoothukudi District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC to Mr.V.Rajiv Rufus , Advocate, SR.No.79577

Cr1.R.C. (MD) No.442 of 2018
and

Cr1.M.P. [MD] .No.6242 of 2018
21.08.2018

SJI

ES/SKN/RSK/SAR 1/26.09.2018/3P/6C