



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.08.2018

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

CRL.O.P. (MD) No.14095 of 2018

WEB COPY

Haji Mohamed

... Petitioner

Vs

1. The Superintendent of Police,
Pudukkottai District.

2. The Inspector of Police,
Mimisal Police Station,
Pudukkottai District.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying, to call for the records with regard to final report filed in S.T.C.No.113 of 2018 against Crime No.76 of 2017 pending on the file of the Judicial Magistrate Court, Aranthangi and set aside the same and further direct the first respondent to conduct further investigation by appointing another competent investigation Officer and file final report afresh before the concerned Judicial Magistrate, Aranthangi within the time stipulated by this Court.

For Petitioner : Mr.G.Ganesh Kumar

For Respondents : Mr.K.Suyambulinga Bharathi
Government Advocate (Crl.side)

O R D E R

This criminal original petition has been filed challenging the final report filed and taken cognizance by the Judicial Magistrate, Aranthangi in S.T.C.No.113 of 2018 and for a direction for further investigation.

2.The learned counsel for the petitioner submits that the petitioner was attacked by six known persons on 07.05.2017 and he suffered multiple injuries. Therefore, the petitioner was treated at Government Hospital, Manamelkudi and thereafter, he was shifted to General Hospital, Pudukkottai on the very same day. The discharge summary given by the General Hospital, Pudukkottai, reveals that the petitioner has suffered multiple injuries due to the assault.

3.The second respondent Police registered an F.I.R. against six persons named by the petitioner in Crime No.76 of 2017 for an offence under Sections 147, 294(b), 324, 506(i) and 379 IPC.



4. Subsequently, the final report was filed on 03.03.2018 before the Judicial Magistrate, Aranthangi, wherein, out of the six accused persons, the final report was filed only as against one person and the rest of the five persons were dropped. It is seen from the records that this was done based on the 161 statement said to have been obtained by the second respondent from the petitioner.

5. The reading of the 161 statement, on the face of it, seems to convey that only Mohamed Mustak attacked the petitioner and the other five persons' name were also included in the complaint due to the previous enmity against Mohamed Mustak. This 161 statement is said to have been taken by the Investigating Officer from the petitioner on 09.05.2017 in the Manamelkudi Government Hospital.

6. The learned counsel for the petitioner would submit that on 09.05.2017, he was at the General Hospital, Pudukkottai and he had been shifted from the Government Hospital, Manamelkudi on 07.05.2017 itself. Therefore, the learned counsel would submit that the very statement said to have been taken from the petitioner is false.

7. The learned counsel for the petitioner also brought to the notice of this Court that the complaint was given by the petitioner before the second respondent police, when he was in Government Hospital, Manamelkudi. The complaint starts with the clear statement that it was given on 07.05.2017 at about 4.15 p.m., However, the Sub Inspector, who had received this complaint, had made an endorsement as if this complaint was given on 08.05.2017 at 9.00 a.m., over writing in the date is clearly apparent from the endorsement made by the second respondent.

8. The records clearly reveals that, all is not well in the manner in which, the investigation was conducted by the second respondent. Now the Court below has also taken cognizance of the final report and therefore, the Court below will not be in a position to order further investigation in this case. Therefore, even if the petitioner herein files a protest petition before the Court for dropping five accused persons, the Court below will not be in a position to order further investigation.

9. On going through the records, this Court is of the clear view that the investigation has not been conducted properly by the second respondent. In the interest of justice, a further investigation has to be conducted in this case. Therefore, this Court directs the second respondent to conduct further investigation under the supervision of the first respondent and file a final report, within a period of three months from the date of receipt of a copy of this order. The second respondent is



directed to conduct an independent uninfluenced investigation in this matter and the first respondent has to ensure and supervise the second respondent conducts the investigation only based on the statement and evidence collected in this case.

10. In view of the further investigation ordered by this Court, proceedings in S.T.C.No.113 of 2018, pending before the Judicial Magistrate Court, Aranthangi, shall be stayed and the Court below shall wait for further report to be filed by the second respondent, after the completion of the further investigation.

11. This Criminal Original Petition is allowed to the extent as indicated above.

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar (CS-III)

To

1. The Judicial Magistrate,
Aranthangi.
2. The Superintendent of Police,
Pudukkottai District.
3. The Inspector of Police,
Mimisal Police Station,
Pudukkottai District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.G.Ganesh Kumar, Advocate SR.No.77754

Rmi

MK/RSK/SAR 3/29.08.2018/3P/6C

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