



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.11.2018

CORAM:

THE HONOURABLE MR. JUSTICE A.D. JAGADISH CHANDIRA

Cr1.O.P. (MD) .No.20845 of 2018

WEB COPY  
Marimuthu

... Petitioner

Vs.

1. The Superintendent of Police,  
Virudhunagar District, Virudhunagar.

2. The Inspector of Police,  
Virudhunagar West Police Station,  
Virudhunagar, Virudhunagar District.  
(Crime No.315 of 2018).

.. Respondents

**PRAYER:** This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to direct the first respondent herein to issue appropriate direction for the Reinvestigation of the case in Crime No.315 of 2018, on the file of the 2<sup>nd</sup> respondent herein on the basis of the petitioner's representation dated 27.10.2018.

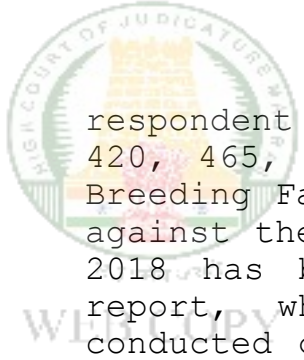
For Petitioner : Mr.A.Thiruvadikumar

For Respondents : Mr.R.Anandharaj  
Additional Public Prosecutor

**ORDER**

This Criminal Original Petition has been filed seeking for a direction to the first respondent to issue appropriate direction for the Reinvestigation of the case in Crime No.315 of 2018, on the file of the 2<sup>nd</sup> respondent on the basis of the his representation dated 27.10.2018.

2. The learned counsel for the petitioner would submit that the petitioner/de-facto complainant had preferred a complaint before the respondent police in Crime No.315 of 2018 with regard to theft of cheque. He would further submit that the cheque bearing No.004002 drawn on Axis Bank, Virudhunagar Branch dated 06.07.2017 was stolen by one Vinoth, employee of the Super Breeding Farm, Palladam and based on the stolen cheque, the said Super Breeding Farm had initiated a complaint under Section 138 of the Negotiable Instrument Act, which is pending in S.T.C.No.2071 of 2017, on the file of the learned Judicial Magistrate, Palladam. Immediately, on receipt of the notice, the petitioner had sent a reply stating that the cheque had been stolen by the said Vinoth. Thereafter, the petitioner had given a complaint to the second respondent for taking action. Based on the complaint, the First Information Report came to be registered in Crime No.315 of 2018 by the second



respondent for the offences punishable under Sections 120-B, 379, 420, 465, 468 and 471 of IPC. In the meanwhile, the said Super Breeding Farm had proceeded with the trial in S.T.C.No.2071 of 2017 against the petitioner. While the investigation in Crime No.315 of 2018 has been pending, the second respondent has given a final report, wherein, he had stated that further investigation will be conducted only after the outcome of the result in S.T.C.No.2071 of 2017.

3. He would also submit that the complaint has been given in respect of offence under Sections 120-B, 379, 420, 465, 468 and 471 of IPC, whereas, the final report awaiting for the outcome lacks logic and is nothing but a trick to avoid conducting the investigation in a proper manner. He would also submit that the petitioner has got evidence to prove that the cheque has been stolen and forgery has been committed. Hence, the learned counsel for the petitioner seeks for reinvestigation.

4. This Court is of the opinion that the petitioner cannot seek for a reinvestigation and the remedy available to him would be to file a protest petition and the petitioner is at liberty to file a protest petition before the appropriate forum challenging the final report.

5. At this juncture, the learned counsel for the petitioner would submit that if that is so, a direction may be issued to the learned Magistrate to take the protest petition and pass orders fixing a time frame, since the outcome is very essential for defending S.T.C.No.2071 of 2017, so that the petitioner can also seek for a joint trial of the protest petition as well as the 138 proceedings pending against him.

6. Taking into consideration the submission made by the learned counsel for the petitioner, the direction is issued to the learned Judicial Magistrate No.I, Virudhunagar to take the protest petition and pass orders within a period of one month from the date of receipt of copy of this order. The petitioner is at liberty to file appropriate petition seeking joint hearing of the protest petition and S.T.C.No.2071 of 2017, pending on the file of the learned Judicial Magistrate, Palladam.

7. With the above observations, the Criminal Original Petition stand closed.

Sd/-

Assistant Registrar(CRL.SIDE)

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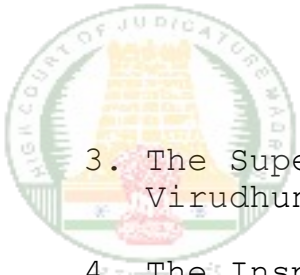
Sub Assistant Registrar(CS-II)

To

1. The Judicial Magistrate No.I, Virudhunagar.

<https://hcservices.ecourts.gov.in/hcservices/>

2. The Judicial Magistrate, Palladam.



3. The Superintendent of Police,  
Virudhunagar District, Virudhunagar.

4. The Inspector of Police,  
Virudhunagar West Police Station,  
Virudhunagar, Virudhunagar District.

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

+1cc to Mr.A.Thiruvadikumar ,Advocate Sr.No.96831

SJI

KM/BK/SAR2/21.12.2018/3P/7C

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**26.11.2018**