

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.10960 of 2016 and
W.M.P.No.9553 of 2016

C.Balasubramanian

... Petitioner

Vs.

- 1.The District Collector,
Erode District
2. The Superintendent of Police,
Erode District
3. The Deputy Superintendent of Police,
Perunthurai Range,
Erode District
4. The Dean,
Government Medical College and Hospital,
Coimbatore
5. The Inspector of Police,
Thingalur Police Station,
Erode District
6. The Joint Director,
CBCID,
No.220, Pantheon Road,
Egmore, Chennai-8

... Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India to issue a writ of mandamus directing the 6th respondent to take over the investigation in Crime No.58 of 2016 pending on the file of the 5th respondent herein and alter the section 174 of Cr.P.C. to 302 of I.P.C. and investigate the case by adding the provisions under SC/ST (PoA) Amendment Act 2015 within the time frame fixed by this Court.

For Petitioner : Mr.S.Rajanikanth
For Respondents : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor

ORDER

This Writ Petition has been filed to direct the 6th respondent to take over the investigation in Crime No.58 of 2016 pending on the file of the 5th respondent.

2. The learned Additional Public Prosecutor would submit that initially case in Crime No.58 of 2016 was registered for the offence under Section 174 Cr.P.C. and thereafter enquiry was conducted and the same was closed as mistake of fact. In this regard referred charge sheet notice was issued to the petitioner / defacto complaint and the same was filed before the learned Judicial Magistrate, Perundurai on 28.03.2019. Therefore, change of investigation cannot be considered now.

3. In view of the submissions of the learned Additional Public Prosecutor, the prayer sought for by the petitioner cannot be granted now. However, the petitioner is at liberty to file protest petition before the learned Judicial Magistrate, Perunthurai immediately after receiving the referred charge sheet notice. After filing of the protest petition, the learned Judicial Magistrate, Perunthurai is directed to conduct enquiry and pass orders on merits and in accordance with law. The respondent is also directed to serve all the copies of the relevant documents along with the referred charge sheet notice to the petitioner within one week from the date of receipt of copy of this Order.

4. With the above directions, this writ petition stands disposed of. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

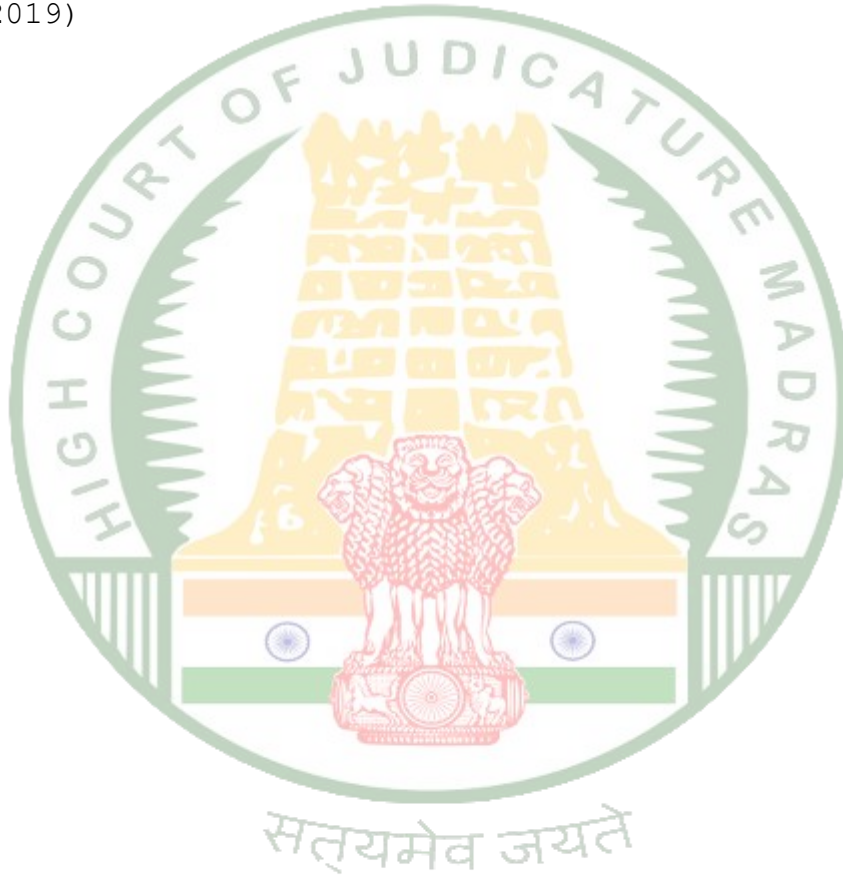
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W.P.No.10960 of 2016

KS (CO)
CS (20/05/2019)



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