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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.11.2019

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.Nos.24798 & 26762 of 2014

and

M.P.Nos.1 & 1 of 2014

P.Mohan

... Petitioner in

Crl.OP.24798/2014/Accused No.1

T.K.Ramasamy

... Petitioner in

Crl.OP.26762/2014/Accused No.2

Vs.

1.The State

Rep. by the Inspector of Police

Puduchathiram Police Station

Namakkal District

2.Murugesan

... Respondents in both Crl.OPs/
Complainant

COMMON PRAYER:Criminal Original Petitions have been filed under Section 482 of Criminal Procedure Code to call for the records pertaining to Crime No.356 of 2014 on the file of the 1st respondent police and quash the same as illegal, incompetent and ultravires.

For Petitioner in Crl.OP.24798/14 : Mr.R.Jayaprakash

For Petitioner in Crl.OP.26762/14 : Mr.M.Guruprasad

For Respondents in both Crl.OPs :Mrs.M.Prabhavathy,
APP for R1

Mr.D.Shivakumaran for R2

COMMON ORDER

This Criminal Original Petitions have been filed by the petitioners to call for the records pertaining to Crime No.356 of 2014 on the file of the 1st respondent police and quash the same as illegal, incompetent and ultravires.

2.The petitioner in Crl.O.P.No.24798 of 2014 is A1 and Crl.O.P.No.26762 of 2014 is A2 in Crime No.356 of 2014 had filed



these quash petitions on the ground that T.K.Ramaswamy, A2 had filed a 138 case against the defacto complainant, the 2nd respondent in C.C.No.362 of 2012 before the learned Judicial Magistrate at Thuraiyur and his counter blast to the same, a false complaint which came to be registered in Crime No.356 of 2014 for the offence u/s.193, 209, 406 and 420 IPC. The learned counsel for the petitioners further submitted that the Criminal case has been foisted against them maliciously.

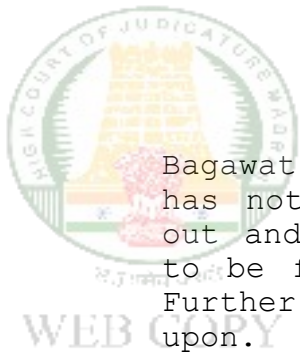
3.The learned Additional Public Prosecutor appearing for the 1st respondent filed a status report stating that the case in Crime No.356 of 2014 for the offence u/s.193, 209, 406 and 420 IPC on 13.07.2014 have filed report after investigation, they have also filed further action dropped (FAD) on 20.01.2015.

4.On a perusal of the Further Action Dropped report and copy of the Station Diary, it is mentioned that the petitioners who are A1 & A2 as well the 2nd respondent have been summoned on several occasions to appear before them for enquiry and to produce documents, but no documents were produced by them.

5.The petitioners herein had submitted that 138 case has been filed against the 2nd respondent and further they have also obtained anticipatory bail before the High Court in Crime No.356 of 2014 and armed with the anticipatory bail, they are not cooperating with the investigation, hence the respondent police have prepared a Final Action Dropped report.

6.On perusal of FIR, this court finds that this reasoning is unacceptable and it is found that the respondent police to wash away their responsibility in conducting the investigation has given such reasons. The respondent police coming to know cognizance offence is committed, they are duty bound to conduct the investigation as contemplated in law. It is a known fact anticipatory bail are granted subject to the condition that the petitioner / accused to appear before the Investigation Officer and to cooperate with the investigation. In this case, no materials have been produced that summons have been served to them. If the petitioner / accused, refuses to appear and co-operate with the investigation. It is open for the respondent police to file cancellation of bail petition before concerned Court.

7.Further, it is seen that 138 case in STC.No.363 of 2012 on 06.06.2018 ended in acquittal. It is also seen that no notice has been served to the defacto complainant / 2nd respondent before filing closure report, which is in violation of the decision of the Hon'ble Supreme Court judgment rendered in



Bagawat Singh case, which the Investigation Officer in this case has not followed. No investigation worthwhile had been carried out and on the other hand the Further Action Dropped Report is to be filed. In view of the same, this Court finds that the Further Action Dropped Report is not to be considered and acted upon.

8. In view of the above, the Deputy Superintendent of Police, Namakkal District, is hereby directed to carry out the investigation in Crime No.356 of 2014 of Pudhuchathiram police station and to file a final report following the procedures of Cr.P.C. The learned counsel for the 2nd respondent to appear before the Deputy Superintendent of Police and to produce all the documents. The petitioners to cooperate with the investigation, failing which, the Deputy Superintendent of Police to take appropriate action against them.

9. With the above direction, these Criminal Original Petitions stand disposed of. Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

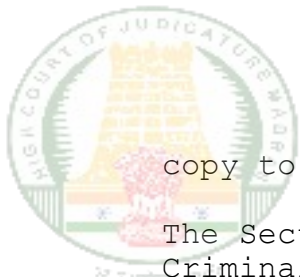
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To.

1. The Deputy Superintendent of Police
Puduchathiram Police Station
Namakkal District

2. The Public Prosecutor
High Court of Madras

3. The Inspector of Police
Pudhchathiram Police Station
Namakkal District



copy to

The Section Officer
Criminal Side
High Court of Madras

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+2 cc to Mr.D.Shivalamaran Advocate sr96103 & 96104
+1 cc to Mr.M.Guruprasad Advocate sr96090
+1cc to Mr.R.Jayaprakash Advocate sr96433

Crl.O.P.Nos.24798 &
26762 of 2014
and
M.P.Nos.1 & 1 of 2014

aa27/12/2019