

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2019

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CrI.O.P No.13479 of 2017
and CrI.M.P.No.8691 of 2017

Vadivel

... Petitioner/Defacto Complainant

vs.

1. The Superintendent of Police,
Namakkal.

2.The State of Tamil Nadu,
rep by the Inspector of Police,
Mohanur Police Station,
Namakkal District.
(Crime No.390 of 2013)

.... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying to direct the 2nd respondent to conduct a fresh/de-novo investigation in Crime No.390 of 2013, on the file of the 2nd respondent.

For Petitioner : M/s.K.S.Karthik Raja

For Respondents:Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

This petition has been filed for conducting a fresh investigation in Crime No.390 of 2013.

2. The learned Additional Public Prosecutor, on instructions, submitted that the investigation has been completed and a final report has been filed and the same was taken on file by Judicial Magistrate No.II, Namakkal, in C.C.No.104 of 2016 and the case is now at the stage of trial.

3. The learned counsel for the petitioner submitted that there are totally five accused persons, who are involved in this case. It is a case of job rocketing and the respondent police have only shown two accused persons in the final report and rest of the three accused persons names were left out. Therefore,

the learned counsel submitted that the investigation conducted by the respondent police was not effective. The learned counsel further submitted that there are materials to show that the amount that was misappropriated, was also deposited in the account of A4 and A4 has also subsequently married A1. Therefore there was a material as against A4 and inspite of the same, her name was dropped in the final report.

4. Taking into consideration the facts and circumstances of the case and also the stage of proceedings before the Court below, this Court is not inclined to order for a fresh investigation in this case. The petitioner, who is one of the victim can always speak about the role played by the accused persons at the time of his examination. The trial Court has very wide powers under Section 319 of Cr.P.C to array any person as an accused, at any stage of the case, based on the materials collected during the enquiry or trial. Therefore, the grievance of the petitioner can be easily attended by the Court below, by adding the accused persons, based on the materials collected during the trial. This does not require a fresh investigation, more particularly, when the case is of the year 2013 and it is now at the stage of trial.

5. This Criminal Original Petition is disposed of with the direction to the Judicial Magistrate No.II, Namakkal, to dispose of C.C.No.104 of 2016, within a period of six months from the date of receipt of copy of this order. If the Court below finds that there are materials to include any person as an accused in this case, it can exercise its jurisdiction under Section 319 of Cr.P.C, by keeping in mind the settled principles of law. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

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सत्यमेव जयते

Sub Assistant Registrar

To

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1.The Judicial Magistrate No.II,
Namakkal.

2.The Superintendent of Police,
Namakkal.

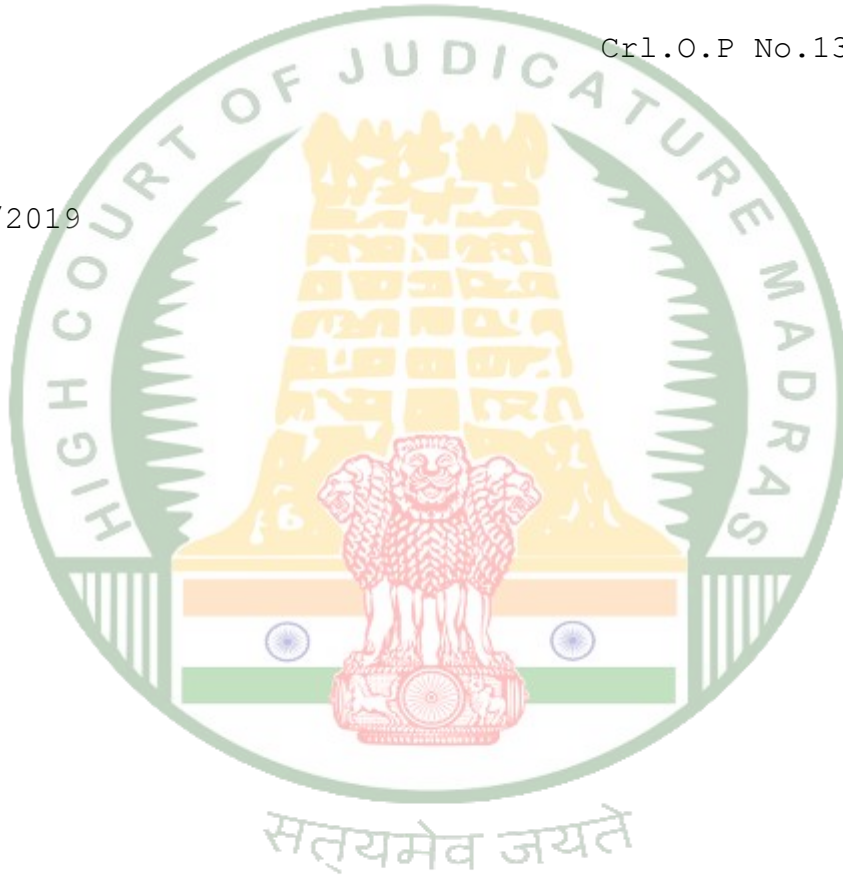
3.The Inspector of Police,
Mohanur Police Station,
Namakkal District.

4.The Public Prosecutor,
High Court of Madras,
Madras.

+lcc to Mr.K.S.Karthik Raja, Advocate Sr.66906

Cr1.O.P No.13479 of 2017

nrjk[col]
srg 16/09/2019



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