

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 29.01.2019****CORAM****THE HONOURABLE MR.JUSTICE P.VELMURUGAN****Cr1.R.C.[MD]No.757 of 2016**

V.Uma

: Petitioner

Vs.

1.C.Boopathi

2.Kaliyamoorthi

3.Pakkiri

4.Mamangam

5.Prakash

...Respondents/Accused Nos 1 to 5

6.The Inspector of Police,
Thiruvidadaimarudur Police Station,
Thanjavur District,
(Crime No.340 of 2012)

R6 impleaded as per order of this Hon'ble Court made
in Cr1.M.P(MD) No.268 of 2017 dated 18.01.2017. : Respondents

PRAYER : Criminal Revision Case is filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the entire records relating to the impugned order dated 27.10.2015 passed by the learned II Additional District Munsif cum Judicial Magistrate No.I, Kumbakonam in Cr.M.P.No.5900 of 2012 and set aside the same.

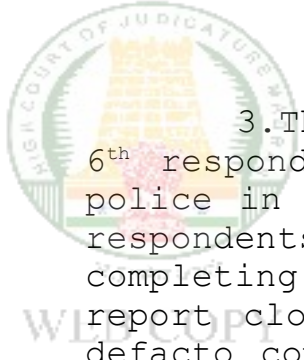
For Petitioner: Mr.A.Saravanan

Respondents : Mr.G.Gomathi Shankar - for R1 to R5
Mr.A.P.Ohm Chairma Prabhu - for R6
Government Advocate (Cr1. Side)

O R D E R

This Criminal Revision Case has been filed against the order passed in Cr.M.P.No.5900 of 2012 by the learned II Additional district Munsif cum Judicial Magistrate No.I, Kumbakonam, dated 27.10.2015.

2.Heard the learned Counsel appearing for the petitioner, the learned Counsel appearing for the respondents 1 to 5 and the learned Government Advocate (Cr1. Side) appearing for the 6th respondent.



3. The revision petitioner preferred a complaint before the 6th respondent and the same was taken on file by the respondent police in Crime No.340 of 2012 and registered a case against the respondents 1 to 5/ Accused 1 to 5. Subsequently, after completing the investigation, the respondent police filed a final report closing the case as mistake of fact. Against which the defacto complainant filed protest petition stating that no notice was given to him and the Investigation Officer did not investigate the relevant witnesses, when the said witnesses are available and hence, the revision petitioner / complainant filed the protest petition. After hearing the arguments, by order dated 27.10.2016, the learned II Additional District Munsif cum Judicial Magistrate No.I, Kumbakonam, dismissed the protest petition stating that he had neither produced any witnesses nor cited any witnesses in the protest petition. Challenging the same, the revision petitioners /Accused are before this Court with this revision.

4. The learned Counsel for the petitioner would submit that the learned Magistrate need not accept the case of the prosecution. The learned Counsel also relied upon the judgment reported in 2012 CrI. L.J.1309 in the case of Vasanti Dubey Vs. State of Madhya Pradesh, in which, it is held that final report or closure report of police, the learned Judicial Magistrate can ignore the same and can take cognizance on applying his mind independently to case.

5. Heard the rival submissions made on both sides and perused the materials available records.

6. There is no quarrel with the proposition laid down by the Hon'ble Supreme Court in the above decision and also the contention raised by the learned Government Advocate (CrI. Side) appearing for the respondent police. However, on a careful reading of the protest petition filed by the revision petitioner and also the order passed by the learned Judicial Magistrate, the protest petition is one page complaint but in which he has not cited any witness or materials through whom and with what documents he will establish the complaint. Under these circumstances, there is no list of witness cited or produced and therefore, the judgment relied upon by the revision petitioner that the Trial Judge has not applied his mind is not applicable to the present case on hand and this Court does not find any perversity in the order of the learned II Additional District Munsif cum Judicial Magistrate No.I, Kumbakonam. Therefore, this Court does not find any reason to interfere with the order passed by the learned II Additional District Munsif cum Judicial Magistrate No.I, Kumbakonam and there is no merit in this revision.



7. Accordingly, the Criminal Revision Case is dismissed.

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Sd/-

Assistant Registrar (CRL.SIDE)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The II Additional District Munsif cum Judicial Magistrate No.I,
Kumbakonam.

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

Copy to

The Section Officer, (2 copies)
Criminal Section (Record)
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.A.SARAVANAN, Advocate (SR-43363[F] dated
29/01/2019)

+1 CC to M/s.G.GOMATHI SANKAR, Advocate (SR-43469[F] dated
30/01/2019)

rm

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29.01.2019

KM/(27.03.2019) 3P 7C