



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.09.2019

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl OP(MD)No.10566 of 2014
and
WP(MD)No.11996 of 2013

Crl OP(MD)No.10566 of 2014 :

1.Pandarathi

2.V.Narayanan
Nos.1 & 2

...Petitioners / Accused

Vs.

1.The Assistant Commissioner of Police,
Law & Order, Palaymkottai,
Tirunelveli City.

... 1st Respondent /
Complainant

2.S.Arumugam

... 2nd Respondent/ Defacto
Complainant

Prayer : This Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records in PRC No.122 of 2013 on the file of the Judicial Magistrate No.I, Tirunelveli quash the same.

WP(MD)No.11996 of 2013 :

V.Narayanan

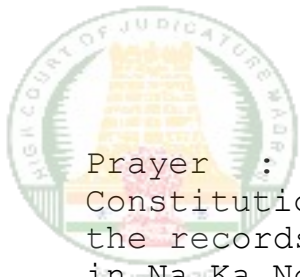
... Petitioner

Vs.

1.The District Collector,
Tirunelveli City.

2.The Assistant Commissioner of Police,
Law & Order, Palaymkottai,
Tirunelveli City.

... Respondents



Prayer : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the proceedings of the first respondent made in Na.Ka.No.A2/25058/2012 dated 16.08.2012 and quash the same.

In Crl OP(MD)No.10566 of 2014 :

For Petitioners : Mr.R.Anand
For R1 : Mr.A.Robinson
Government Advocate (crl.side)
For R2 : Mr.T.Lajapathi Roy

In WP (MD)No.11996 of 2013 :

For Petitioner : Mr.R.Anand
For R1 and R2 : Mr.A.Robinson
Government Advocate (crl.side)
For R3 : Mr.T.Lajapathi Roy

COMMON ORDER

One Arumugam filed first information before the Perumalpuram Police Station, Tirunelveli District alleging the commission of offence under the Schedule Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The case was investigated by the Assistant Commissioner of Police (Law and Order), Palayamkottai, Tirunelveli. He filed final report closing the case as Mistake of Fact. The case was placed before the Scrutiny Committee comprising the District Collector. The District Collector by order dated 16.08.2012 did not accept the conclusion of the investigation officer and directed him to undertake further investigation. This is under challenge in WP (MD)No.11996 of 2013. The accused in this case filed Crl OP(MD) No.10566 of 2014 for quashing PRC No.122 of 2013 on the file of the learned Judicial Magistrate No.I, Tirunelveli.

2.It is seen that after the further investigation order was passed by the District Collector, the Investigation Officer had filed another final report holding that the offences against the accused have been made out. The learned Government Counsel would contend on the strength of the counter affidavit filed by the District Collector, Tirunelveli that Rule 17 of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Rules, 1995, would authorise the District Collector to issue an order of further investigation. Rule 17 of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Rules, 1995, reads as under :

"17.Constitution of District Level Vigilance and



WEB COPY

Monitoring Committee.- (1) In each district within the State, the District Magistrate shall set up a vigilance and monitoring committee in his district to review the implementation of the provisions of the Act, relief and rehabilitation facilities provided to the victims and other matters connected therewith, prosecution of cases under the Act, role of different officers /agencies responsible for implementing the provisions of the Act and various reports received by the District Administration.

(2) The district level vigilance and monitoring committee shall consist of the elected Members of the Parliament and State Legislative Assembly and Legislative Council, Superintendent of Police, three-group 'A' Officers, Gazetted Officers of the State Government belonging to the Scheduled Castes and the Scheduled Tribes, not more than 5 non-official members belonging to the Scheduled Castes and the Scheduled Tribes and not more than 3 members from the categories other than the Scheduled Castes and the Scheduled Tribes having association with Non-Government Organizations. The District Magistrate and District Adi Dravidar and Tribal Welfare Officer shall be Chairman and Member-Secretary respectively.

(3) The district level committee shall meet at least once in three months."

3. It is true that the District Collector will have to set up a monitoring committee to review the implementation of the provisions of the Act. But then, the Rules cannot prevail over the statutory scheme set out in the Criminal Procedure Code. The investigation officer appointed under Rule 7 of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Rules, 1995, will have to file final report only before the Special Court concerned and it is for the Special Court that will take a call in the matter. The order dated 16.08.2012 passed by the District Collector is patently lacking in jurisdiction. The District Collector could have directed the Investigation Officer to seek permission to conduct further investigation. He cannot, on his own, direct further investigation.

4. In this view of the matter, the order impugned in WP(MD) No.11996 of 2013 is quashed and the writ petition stands allowed as far as the Crime No.329 of 2011 on the file of the Perumalpuram Police Station is concerned. Since the investigation officer has filed two final reports, one before the passing of the order by the District Collector and the other thereafter, this Court was of the view that the second final report can be quashed and that the Special Court can take a decision after perusing the first final report. But then, the learned counsel for the petitioners brings it to the notice of this Court that the defacto complainant himself



is no more. Therefore, I am of the view that the issue will have to be given a decent burial. Accordingly, Cr1 OP(MD)No.10566 of 2014 also stands allowed and the impugned prosecution stands quashed. No costs.

WEB COPY

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Assistant Commissioner of Police,
Law & Order, Palaymkottai, Tirunelveli City.

2.The District Collector, Tirunelveli.

+1 CC to M/s.T. LAJAPATHIROY, Advocate (SR-85352[F] dated
05/09/2019)

+1 CC to M/s.R. ANAND, Advocate (SR-85470[F] dated 05/09/2019)

Cr1 OP(MD)No.10566 of 2014
and
WP(MD)No.11996 of 2013
04.09.2019

Skm

JMN(17.09.2019) 4P : 5C