



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.11.2019

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl OP(MD)No.15061 of 2015

WEB COPY

Tamilarasan

... Petitioner / Petitioner /
Defacto Complainant

Vs.

1.The State, rep.by
The Inspector of Police,
Crime Branch, Cantonment, Trichy.

2.T.Vijayan

3.Suresh

4.O.A.Natarajan,
Village Administrative Officer,
Ezhumalai Village,
Trichy District.

... Respondents 2 to 4 /
Respondents 2 to 4 / Accused

Prayer : Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the entire records relating to the order dated 13.04.2015 in Crl.MP No.661 of 2014 in C.C No.179 of 2011 on the file of the Judicial Magistrate No.II, Tiruchirappalli and set aside the same.

For Petitioner : Mr.J.Maria Roseline

For Respondents : Mr.A.Robinson,
Government Advocate (crl.side) for R1

Mr.B.Jameel Arasu for R2

Mr.K.S.Shankar Murali for R3

ORDER

This criminal original petition has been filed by the defacto complainant in C.C No.179 of 2011 on the file of the Judicial Magistrate No.II, Tiruchirappalli. The petitioner herein filed Cr.MP No.661 of 2014 seeking further investigation in the matter. The said petition was dismissed by order dated 13.04.2015 on the ground



of maintainability. Even though the issue has been referred to a larger Bench, the position that obtains as on date is that a defacto complainant cannot ask for further investigation and that it is only the investigation officer who can ask for further investigation.

2.The learned counsel appearing for the petitioner brought to my attention a very recent decision of the Hon'ble Supreme Court rendered in Criminal Appeal No.478 and 479 of 2017 (***Vinubhai Haribhai Malaviya and Ors. The State of Gujarat and Anr***) which holds that even at the post cognizance stage the magistrate is not denuded of his power to order further investigation.

3.Therefore, even while sustaining the impugned order and disposing of this petition, I make it clear that it will open to the first respondent herein to take out an application for further investigation. If such an application is filed by the first respondent, the same will be dealt with on merits and in accordance with law by the concerned judicial magistrate without being influenced by the fact that the earlier petition filed at the instance of the defacto complainant ended in vain. Accordingly, this petition is disposed of. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Judicial Magistrate No.II,
Tiruchirappalli.

2.The Inspector of Police,
Crime Branch, Cantonment, Trichy.

+1 CC to M/s.J. MARAIA ROSELINE, Advocate (SR-100110[F]21/11/2019)
+1 CC to M/s.K.S. SANKAR MURALI, Advocate (SR-100105[F]21/11/2019)

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