



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.09.2019

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD).No.16930 of 2017

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Ramakrishnan

... Petitioner / Petitioner

Vs.

- 1) The Inspector of Police,
District Crime Branch,
Land Grabbing Special Cell,
Pudukkottai.
(Crime No.10/2012)

... 1st Respondent/De facto
Complainant

- 2) Sundarraj
3) Rajendran
4) Chandramohan
5) Manipillai
6) Chelladurai
7) Yogambal
8) Arumugam
9) Mathiyalagan
10) Dhanalakshmi
11) Annadurai
12) Thirumala
13) Vijay

- 14) The Revenue Tahsildar,
Aranthangi.

... Respondents 2 to 14/
Accused

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C. to set aside the order dated 14.06.2017 made in R.C.S.No.93 of 2017 on the file of the Judicial Magistrate, Alangudi and to dispose of the same on merits and in accordance with law.

For Petitioner : Mr.G.Sridharan
For R1 to R14 : Mr.S.Chandrasekar,
Additional Public Prosecutor
For R3 : Mr.S.Arivalagu
For R6 to R9 : Mr.N.Balakrishnan,
Mr.P.Senthil Kumar
For RR11 to 12 : Mr.T.Lenin Kumar
Mr.P.Mani Anandh
For R13 : Mr.R.M.S.Sethu Raman
For R2 : Mr.K.Baalasundharam



O R D E R

This Criminal Original Petition has been filed challenging the order passed by the Court below closing the protest petition filed by the petitioner.

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2. The petitioner is the *de facto* complainant and based on his complaint, the first respondent registered an F.I.R. in Crime No.10 of 2012 for offences under Sections 465, 467, 468, 471, 420 and 120 (b) of I.P.C. After investigation, a closure report was filed as 'action dropped' on 03.08.2015 in R.C.S.No.9 of 2015.

3. The petitioner aggrieved by the same, filed a protest petition before the Court below. The Court below closed the protest petition by an order dated 14.06.2017 on the ground that the *de facto* complainant has not co-operated for the disposal of the petition.

4. Heard the learned counsel for the petitioner and learned Additional Public Prosecutor appearing on behalf of the first respondent. The private respondents have been served with notice. Respondents 2,6,9 & 13 were represented by counsel and the names of other respondents are printed in the cause list.

5. It is seen from the records that the *de facto* complainant was present before the Court below during most of the hearing dates. It is not known as to why the Court below proceeded to close this protest petition on 14.06.2017, more particularly, when the *de facto* complainant was present before the Court atleast on five earlier occasions. If the Court below has decided to deal with the petition as a protest petition, the Court below can very well look into the F.I.R. and the materials that have been collected by the respondent police in the course of investigation and thereafter, come to its own conclusion. For that purpose, the presence of the *de facto* complainant for every hearing may not be required.

6. However, if the Court below is going to treat the protest petition as a private complaint, then there is some meaning in insisting for the personal presence of the *de facto* complainant. There is absolutely no indication from the records that the Court below is dealing with the protest petition as a private complaint. Therefore, this Court is of the considered view that the Court below ought to have proceeded further with the protest petition and decided the same on its own merits.

7. In view of the above discussion, the order of the Court below dated 14.06.2017 made in the protest petition is hereby set aside. The Court below is directed to restore the petition on file and proceed further to decide the same on its own merits and in



accordance with law and after affording opportunity to all the parties concerned.

8. In the result, this Criminal Original Petition is allowed and the Court below is directed to dispose of the protest petition within a period of two(02) months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

To

1) The Judicial Magistrate,
Alangudi.

2) The Inspector of Police,
District Crime Branch,
Land Grabbing Special Cell,
Pudukkottai.
(Crime No.10/2012)

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

+1 CC to MR.G.SRIDHARAN, Advocate (SR-88215[F] dated 20/09/2019)
+1 CC to MR.T.LENIN KUMAR, Advocate (SR-88252[F] dated 20/09/2019)
+1 CC to MR.K.BAALASUNDHARAM, Advocate (SR-88696[F] dated
23/09/2019)

Order made in
Crl.O.P. (MD) .No.16930 of 2017
Dated:20.09.2019

sts

MK (22.10.2019) 3P 7C