

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.01.2020

CORAM

The Honourable Mr.Justice M.DHANDAPANI

Cr1.R.C.No.475 of 2011
and
M.P.No.1 of 2011

Benjamin

...Petitioner/Accused

Vs.

1.State represented by
The Sub-Inspector of Police,
Ambattur Police Station,
Chennai.
Crime No.223 of 2010.

...1st Respondent/
Complainant

2.Gomathi

...2nd Respondent/
Defacto Complainant

PRAYER: This Criminal Original Petition has been filed under Sections 397, 401 of Cr.P.C to set aside the order passed in CMP.No.2833 of 2010, dated 15.09.2010, on the file of the learned Judicial Magistrate, Ambatur.

For Petitioner : Mr.R.Babu Murugavel

For R1 : Mr.C.Iyyappaaj
Additional Public Prosecutor

For R2 : M/s.P.A.Chithramani

O R D E R

The Criminal Original Petition has been filed praying to set aside the order passed in CMP.No.2833 of 2010, dated 15.09.2010, by the learned Judicial Magistrate, Ambattur.

2. The case of the prosecution is that the second respondent/defacto complainant has lodged a complaint against the petitioner herein in Crime No. 223 of 2010, for the offences

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under Sections 294(b), 420 and 506(1) of IPC., before the first respondent herein. On receipt of complaint, the first respondent police conducted investigation, and after investigation, the said complaint was closed and a closure report has also been filed before the jurisdictional Court. Later, the defacto complainant filed a protest petition, as against the closure report. Thereafter, the learned Magistrate ordered for re-investigation, under Section 173(8) Cr.P.C. Challenging the same, present petition has been filed.

3 The learned counsel appearing for the petitioner/accused has reported no instructions.

4. The learned Additional Public Prosecutor appearing for the first Respondent/State, on instructions, would submit that the closure report has filed before the Trial Court, the Trial Court has ordered for reinvestigation, based on the objections raised by the petitioner. In such view of the matter, the order of the trial Court, cannot be interfered with either by the accused or by the defacto complainant. Hence, the learned Additional Public Prosecutor, prayed for dismissal of the petition.

5. The learned counsel appearing for the defacto complainant would submit that the offence in the FIR includes Section 420 of IPC and therefore, the law enforcing agency, based on political pressure, has filed closure report, but the learned Magistrate has ordered for re-investigation, which cannot be interfered with by this court.

6. I have heard the learned counsel appearing for the 2nd respondent and the learned Additional Public Prosecutor appearing for the first respondent and perused the materials on record.

7. On perusal of the records would reveal that the 2nd respondent initially filed a complaint before the Law Enforcing Agency, which was registered in Crime No.223 of 2010, for the offence under Sections 294(b), 420, and 506(1) of IPC. After investigation, the first respondent filed a closure report before the jurisdictional Court. Aggrieved over the same, the second respondent filed a protest petition, in which, the learned Magistrate, after considering the grievance expressed by the 2nd respondent, has ordered for re-investigation. The learned Magistrate, in exercise of his powers, is competent to disagree with the 'closure report' and directs re-investigation and if at all the petitioner has any grievance, he can very well ventilate the same before the lower Court and before Law

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Enforcing Agency during investigation. Hence, I have no reason to interfere with the order of the trial Court.

8. In the result, this Criminal Original Petition stands dismissed. Consequently, the connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

dua

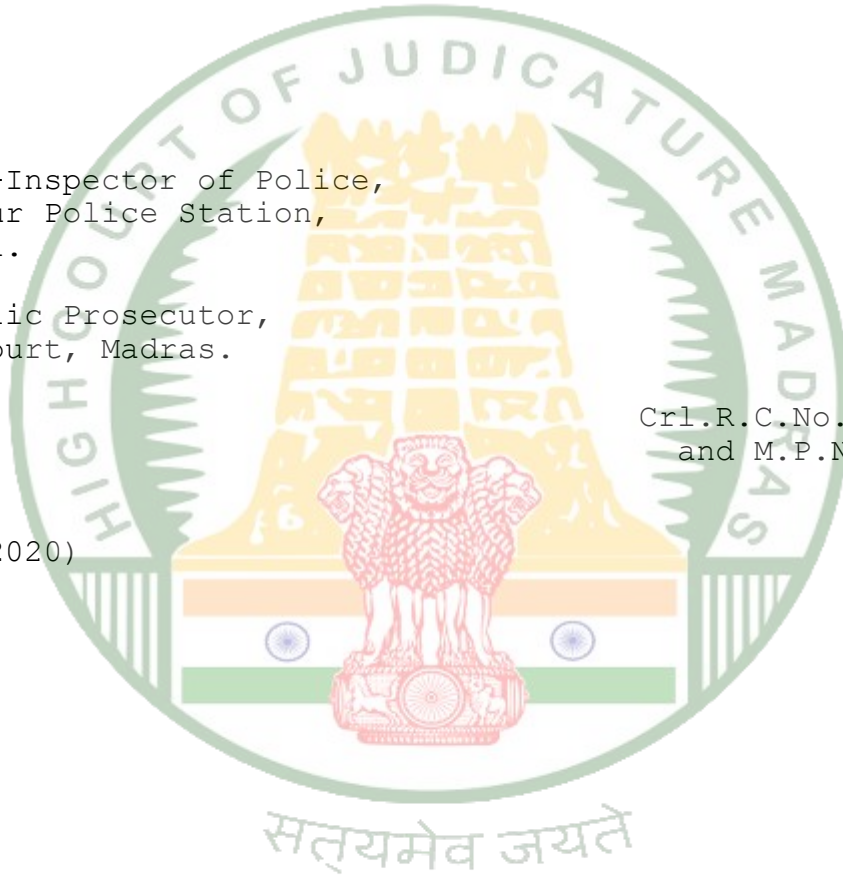
To

1.The Sub-Inspector of Police,
Ambattur Police Station,
Chennai.

2.The Public Prosecutor,
High Court, Madras.

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and M.P.No.1 of 2011

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