

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.09.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Cr1.O.P.No.13306 of 2020

Periyasamy
S/o Sengodan
No.2/226, Kallankaru
Rasipuram Taluk
Namakkal District.

... Petitioner

Vs.

State Rep by its
The Inspector of Police
Vennandur Police Station
Namakkal District.
(Crime No.39/2020)

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to set aside the notice dated 11.07.2020 issued by the respondent to the petitioner in connection with Cr.No.39 of 2020 on the file of the respondent police.

For Petitioner : Mr.S.Sivakumar

For Respondent : Mr.S.Karthikeyan
Additional Public Prosecutor.

O R D E R

The Criminal Original Petition has been filed to set aside the notice dated 11.07.2020 issued by the respondent to the petitioner in connection with Cr.No.39 of 2020 on the file of the respondent police.

2.The learned counsel for the petitioner would submit that the petitioner lodged a complaint before the respondent police and the same was registered in Crime No.39 of 2020 for the offences punishable under Sections 147, 294(b), 323 and 506(ii) of IPC as against the accused persons. Though there are incriminating materials available to attract all the offences as against all the accused persons, the respondent police not even sent any notice to the petitioner, simply and mechanically deleted two accused persons name, while filing the charge sheet. After deleting the two accused persons name from the charge sheet, they issued impugned notice dated 11.07.2020 to the petitioner herein. Therefore, the respondent violated the principles of natural justice and sought for quashment of the

said notice issued by the respondent.

3.The learned Additional Public Prosecutor would submit that on the complaint lodged by the petitioner, the respondent police conducted detailed enquiry and found no material is available as against the 5th and 6th accused and as such the respondent deleted their names from the charges. He further submitted that infact on the complaint lodged by the counter persons namely the other accused persons have been enquired in detail and closed the same. Therefore, the respondent police has rightly deleted the names of the 5th and 6th accused persons from the charge sheet and filed final report before the Court concerned.

4.Heard both sides and perused the materials available on record.

5.On the complaint lodged by the petitioner, as against the six accused persons, the respondent police registered the case in Crime No.39 of 2020 for the offences under Sections 147, 294 (b), 323 and 506(ii) IPC. After completion of investigation, the respondent police deleted the 5th and 6th accused persons name in the charge sheet and filed final report before the learned Judicial Magistrate, Rasipuram, Namakkal District. Now, the charge sheet has been laid as against the accused persons 1 to 4 on the file of the learned Judicial Magistrate, Rasipuram, Namakkal District, and it is pending for taking cognizance. The impugned notice is nothing but referred charge sheet notice and the same was duly received by the petitioner and also challenged before this Court.

6.This Court cannot go into the materials annexed along with the charge sheet as against the accused persons and cannot conduct any detailed enquiry on the final report. Therefore, the petitioner is directed to file a protest petition in respect of deleting the name of the 5th and 6th accused persons, before the learned Judicial Magistrate, Rasipuram, Namakkal District, in the manner known to law. On receipt of the same, the learned Judicial Magistrate, Rasipuram, Namakkal District, is directed to take cognizance of the same and pass orders on merits and in accordance with law.

7.With the above directions, the Criminal Original Petition is disposed of.

Sd/-

Assistant Registrar (CCC)

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Sub Assistant Registrar

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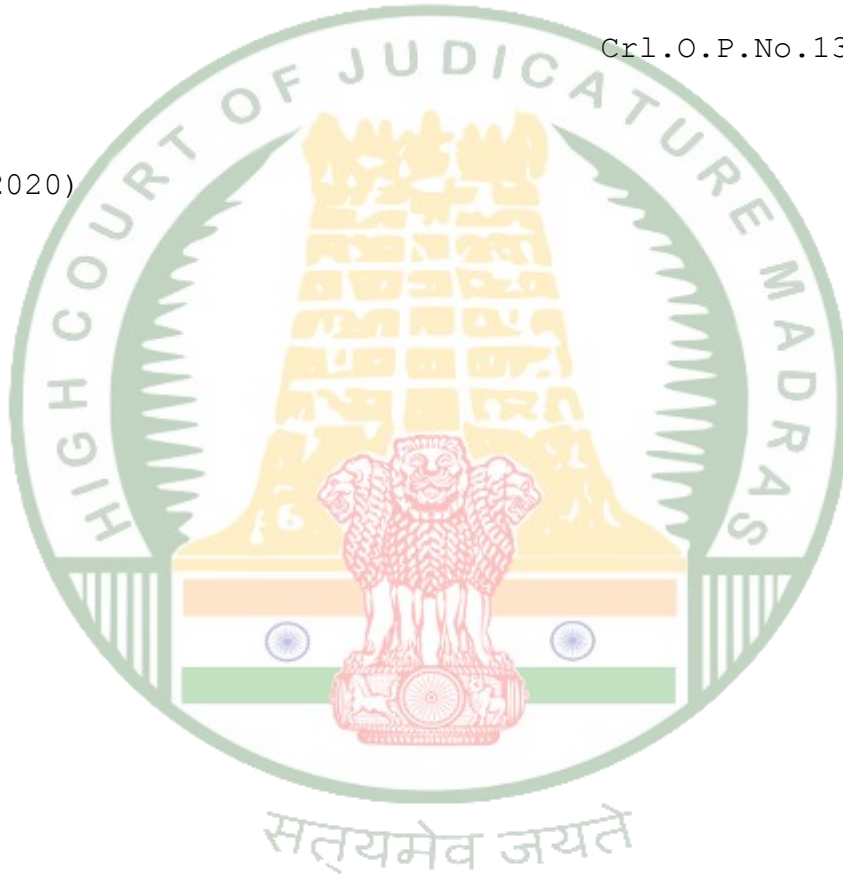
1.The Judicial Magistrate
Rasipuram, Namakkal District.

2.The Inspector of Police
Vennandur Police Station
Namakkal District.

3.The Public Prosecutor
High Court of Madras.

Cr1.O.P.No.13306 of 2020

AJS (CO)
GN (09/10/2020)



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