

Crl.M.P.No.7603 of 2020
in Crl.R.C.No.SR30458 of 2020

P.N. PRAKASH, J.

This case is taken up through video conferencing.

2. This criminal miscellaneous petition has been filed seeking to accept the cause title in the above Crl.R.C.No.SR30458 of 2020 for the just disposal of the case in the interests of justice.

3. In connection with the death of one Vishnu Priya, the CBI registered a case in Crime No.RC7(S)/2016 and after completing the investigation, they filed a final report closing the case as suicide. The closure report was filed in the Court of the Chief Judicial Magistrate, Coimbatore. Notice was ordered to the parents of Vishnu Priya. They filed a protest petition and a private complaint in Crl.M.P.Nos.773 & 1034 of 2019, respectively, in the Court of Chief Judicial Magistrate, Coimbatore.

4. It is their case that their daughter Vishnu Priya was subjected to harassment by one S.R.Senthil Kumar, Superintendent of Police, under whom, Vishnu Priya was working.

5. The learned Chief Judicial Magistrate, Coimbatore, heard the petitioners and the Special Public Prosecutor for the CBI and by a detailed order dated 09.01.2019, accepted the closure report of the CBI and dismissed Crl.M.P.Nos.773 & 1034 of 2019 under Section 203 Cr.P.C.

6. Challenging the order dated 09.01.2019, the parents of Vishnu Priya have filed the present revision petition with a delay of 340 days. They have also filed Crl.M.P.No.7603 of 2020 in Crl.R.C.No.SR30458 of 2020 to implead Senthil Kumar as one of the respondents in this proceedings, though he was not a party in the trial Court and that is why, they have filed the present criminal miscellaneous petition to accept the cause title.

7. When the matter was argued, this Court explained to the learned counsel for the petitioner that a person will become an accused only after the Court takes cognizance of the offence and issues process under Section 204 Cr.P.C. In other words, the proposed accused has no right of hearing, when a protest petition is under consideration by the Magistrate. At the stage of consideration of a protest petition, the accused will not be available. Protest petition is a duel between the Investigating Officer and the *de facto* complainant.

8. In our adversarial jurisprudence, the proposed accused cannot be impleaded as a party and forced to reveal his defences even before taking of cognizance and issuance of process. By doing that, a person's right to silence, though qualified, will stand adversely affected.

9. When this Court expressed the above view, the learned counsel for the petitioners sought permission of this Court to withdraw this criminal miscellaneous petition.

10. Recording the above submission made by the learned counsel for the petitioners, this criminal miscellaneous petition is dismissed as withdrawn.

In view of the above order, the name S.R.Senthil Kumar in the main revision petition as well in the condone delay petition has to be deleted and the papers may be returned to the learned counsel for the petitioners for this compliance.

04.12.2020

nsd

P.N. PRAKASH, J.

nsd

To

1.The Deputy Superintendent of Police,
CBI, 'SCB',
Chennai.

2.The Public Prosecutor,
Madras High Court,
Chennai – 300 104.



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