

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2020

CORAM :

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Cr1.O.P.No.34245 of 2019

Purushothaman

...Petitioner

Vs

1. State rep by,
The Inspector of Police,
K-3, Aminjikarai Police Station,
Chennai - 600 029.

2. The Assistant Commissioner of Police,
Anna Nagar Sub Division,
Anna Nagar,
Chennai.

3. Thameem Ansari
4. Azarudeen
5. Ashik Hussain
6. Yashik Ali
7. Imaran
...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code to direct the 2nd respondent herein to conduct further investigation in S.C.No.349 of 2018 on the file of V Additional Sessions Court, Chennai and include 3(I) (X) of SC/ST Act along with other offences and proceed in accordance with law.

For Petitioner : Mr.T.Muruganantham
For Respondents : Mr.S.Karthikeyan,
Additional Public Prosecutor
for R1 & R2.
Mr.H.Manivannan for R3 to R7.

O R D E R
(through Video Conference)

This Criminal Original Petition has been filed seeking for a direction to direct the 2nd respondent herein to conduct further investigation in S.C.No.349 of 2018 on the file of V Additional Sessions Court, Chennai.

2.Heard Mr.T.Muruganantham, learned Counsel appearing for the Petitioner and Mr.S.Karthikeyan, learned Additional Public Prosecutor appearing for the respondents 1 and 2 and Mr.H.Manivannan, learned Counsel appearing for the respondents 3 to 7.

3.It is seen from the records that the Petitioner is the defacto-complainant in Crime Number 1049 of 2017 for the offences under Section 147, 148, 341, 325 and 307 of Indian Penal Code @ 147, 148, 341, 325 and 302 of Indian Penal Code on the file of the first respondent police. After investigation, the first respondent being the Investigation Officer, came to the conclusion that the respondents 3 to 7 have committed offences under Sections 147, 148, 341, 325 and 302 of Indian Penal Code @ 147, 148, 341, 325, 302 read with 120 (B) of Indian Penal Code and accordingly, he filed final report before the jurisdictional Magistrate. The Jurisdictional Magistrate, in turn, after taking cognizance, has forwarded the same to the District Court, which has the jurisdiction to try the said offences and accordingly, the same was pending on the file of the V Additional Sessions Court, Chennai in S.C.No.349 of 2018.

4.Only in the said circumstances, the petitioner / defacto-complainant had approached this Court saying that the respondents 3 to 7 had committed an offence under Section 3(I) (X) of SC/ST Act along with other offences, but the same has not been included in the final report which filed by the first respondent. In this regard, he prayed to direct the first respondent to conduct further investigation in the above referred Sessions Case.

5.Now on considering the prayer sought for by the Petitioner, it is settled position that in view of the Judgment rendered by the Hon'ble Supreme Court reported in "2018 1 LW CRL 287" that further investigation can be ordered only at the request of the Investigation Officer. On the other hand, the defacto-complainant is not having any right to ask further investigation in a matter in which, investigation has already been completed by the competent Police Officer, in otherwise Section 216 of Criminal Procedure Code, the trial Court alone is having power to alter or add the charges, that too after considering the materials supplied by the prosecution.

6.Therefore, the prayer sought for by the Petitioner cannot be granted and accordingly, this Petition is dismissed. Further, since the Sessions Case in S.C.No.349 of 2018 is

pending from the year 2018 on the file of the V Additional Sessions Court, Chennai, the learned V Additional Sessions Judge, Chennai is directed to dispose of the same within a period of four months from the date of receipt of copy of this Order.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Inspector of Police,
K-3, Aminjikarai Police Station,
Chennai - 600 029.
2. The Assistant Commissioner of Police,
Anna Nagar Sub Division,
Anna Nagar,
Chennai.
3. The V Additional Sessions Court,
Chennai
4. The Public Prosecutor,
High Court of Madras,
Chennai.

Crl.O.P.No.34245 of 2019

SS(CO)
RV(02/12/2020)

सत्यमेव जयते

WEB COPY