



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.06.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

Crl.O.P (MD)No.16356 of 2019

and

Crl.M.P. (MD)No.9737 of 2019

WEB COPY

1.Marthandam

2.M.Rajesh

3.Paul Durai

... Petitioners/Accused No.1 to 3

Vs

1.The Deputy Superintendent of Police,
Valliyoor Sub Division,
Tirunelveli District.

2.The Inspector of Police,
Panagudi Police Station,
Tirunelveli District.
(Crime No.86 of 2013)

...Respondent/Complainant

3.Thinakaran

... Respondent/Defacto Complainant

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to set aside the order passed by the Judicial Magistrate, Valliyoor, Tirunelveli District in Cr.M.P.No.8484 of 2015, vide his order dated 23.09.2015.

For Petitioners	: Mr.R.Anand
For R1 & R2	: Mr.A.Robinson
	Government Advocate (Crl.side)
For R3	: Mr.M.M.Manivel Pandiyan

ORDER

This petition has been filed for quashing Cr.M.P.No.8484 of 2015 on the file of the learned Judicial Magistrate, Valliyoor, Tirunelveli District.

2.When the matter was argued, one of the contentions raised by the petitioner's counsel is that the learned Magistrate could not have directed the Deputy Superintendent of Police to conduct further investigation in the matter. There upon, the petitioner's counsel was advised to file an independent original petition challenging the order dated 23.09.2015 made in Cr.M.P.No.8484 of 2015.



3.Today, when the matter was taken up for hearing, the petitioner's counsel argued that if at all the learned Magistrate wanted to issue further direction, he could have directed only the Station House Officer and not the jurisdictional Deputy Superintendent of Police.

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4.I am afraid that this contention may not have much force. There is a direct decision of the Hon'ble Supreme Court reported in **1980 1 SCC 554 (State of Bihar Vs. J.A.C.Saldanha and others)**. The Hon'ble Supreme Court in Paragraph No.19 of the said decision held as follows:-

"19.The power of the Magistrate under Section 156(3) to direct further investigation is clearly an independent power and does not stand in conflict with the power of the State Government as spelt out hereinbefore. The power conferred upon the Magistrate under Section 156(3) can be exercised by the Magistrate even after submission of a report by the investigating officer which would mean that it would be open to the Magistrate not to accept the conclusion of the investigating officer and direct further investigation. This provision does not in any way affect the power of the investigating officer to further investigate the case even after submission of the report as provided in Section 173(8). Therefore, the High Court was in error in holding that the State Government in exercise of the power of superintendence under Section 3 of the Act lacked the power to direct further investigation into the case. In reaching this conclusion we have kept out of consideration the provision contained in Section 156(2) that an investigation by an officer in charge of a police station, which expression includes police officer superior in rank to such officer, cannot be questioned on the ground that such investigating officer had no jurisdiction to carry on the investigation ; otherwise that provision would have been a short answer to the contention raised on behalf of respondent."

5.Therefore, I am of the view that the learned Magistrate did not commit any error in directing the jurisdictional Deputy Superintendent of Police to conduct further investigation in the matter. This Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-II)

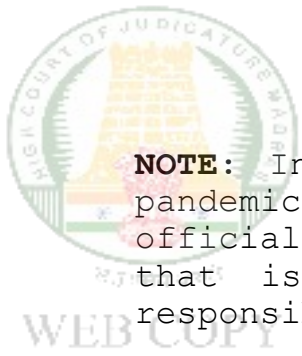
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Sub Assistant Registrar(CS)

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To

- 1.The Judicial Magistrate, Valliyoor,
Tirunelveli District.
- 2.The Deputy Superintendent of Police,
Valliyoor Sub Division,
Tirunelveli District.
- 3.The Inspector of Police,
Panagudi Police Station,
Tirunelveli District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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AP(19/06/2020) 3P 5C