

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2021

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P.NO.3249 OF 2021

AND

CRL.M.P.NO.1844 OF 2021

Dhanam

...Petitioner/
Defacto Complainant

Versus

1. The Sub Inspector of Police,
A.Palipatti Police Station,
Dharmapuri District. 1st Respondent/Complainant

2. Udhayakumar

3. Vijayasaraswathi Respondents 2 & 3/
A1 & A2

This Criminal Original Petition is filed under Section 482 of Criminal Procedure Code praying to order further investigation in STC. No.341 of 2020 pending on the file of the learned Judicial Magistrate, Pappireddipatti in Cr.No.584 of 2020 on the file of the respondent police namely the Sub Inspector of Police, A.Pallipatti Police Station, Dharmapuri.

For Petitioner : Mr.T.R.Sivaram

For Respondents : Mr.C.Raghavan R1
Government Advocate

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O R D E R

This petition has been filed seeking for further investigation in Crime No.584 of 2020 which was investigated by the first respondent.

2. Based on the complaint given by the petitioner, an FIR came to be registered by the first respondent in Crime No.584 of

2020 for the offences under Section 294(b) and 506(i) of IPC against two named accused persons. On completion of the investigation, a final report had been laid before the Court below and the Court below had taken cognizance of the final report for the very same offences in S.T.C.No.341 of 2020.

3. The grievance of the petitioner is that the respondent police has not properly investigated the case and inspite of naming two more accused persons in the complaint, they have not been made as an accused in the final report. The further grievance of the petitioner is that apart from the petitioner, there are certain other important witnesses who have not been examined by the prosecution in this case.

4. Heard Mr.T.R.Sivaram, learned counsel for the petitioner and Mr.C.Raghavan, learned Government Advocate appearing on behalf of first respondent.

5. This Court has carefully considered the submissions made on either side and the materials available on record.

6. The respondent police have recorded the statement recorded under Section 161 of Cr.P.C. from eight witnesses. Out of the same, the petitioner and one more witness are the actual eye witnesses to the incident who would speak about the incident that actually took place on the fateful day. The 161 statement recorded from the petitioner is almost replica of the complaint that was given by the petitioner. Based on the allegations made in the final report and the statements recorded from the witnesses, the Court below has rightly taken cognizance for the offences under Section 294(b) and 506(i) of IPC. In the considered view of this Court, there is no need for further investigation in this case.

7. The grievance of the petitioner that there are some more witnesses who should have been examined by the respondent police, does not carry any weight since the petitioner herself is the aggrieved party and she is capable of describing the entire incident that took place and if the same inspires the confidence of the Court, that evidence by itself is enough for the Court below to take a decision. Trying to search for other witnesses in this case will be waste of time.

8. The final report has been filed against two named accused persons. If, in the course of evidence, Court below is satisfied, based on the evidence, that there are some more accused persons involved in this case, the Court below can always exercise its jurisdiction under Section 319 of Cr.P.C. and add those accused persons. Even with regard to adding any other offence in the course of trial, the Court below has

sufficient powers under Section 216 of Cr.P.C. The Court below will exercise its jurisdiction based on the development that takes place in the course of trial.

9. In view of the above, this Court is not inclined to grant the relief claimed by the petitioner. The Court below shall issue summons to the petitioner by informing the date on which she has to appear before the Court below and depose, and it is left open to the petitioner to clearly explain the incident. Except giving this clarity, no further orders can be passed in this petition.

10. This Criminal Original Petition is disposed of accordingly with a direction to the Court below to complete the proceedings in STC. No.341 of 2020 pending on the file of the learned Judicial Magistrate, Pappireddipatti, within a period of three months from the date of receipt of copy of this order. Consequently, connected miscellaneous petition is close.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate,
Pappireddipatti.
2. The Sub Inspector of Police,
A.Palipatti Police Station,
Dharmapuri District.
3. The Public Prosecutor
High Court of Madras
Chennai - 600 104.

+1cc to Mr.T.R.Sivaram, Advocate, S.R.No.14299

Cr1.O.P.No.3249 of 2021
and Cr1.M.P.No.1844 of 2021

PL(CO)
CS/07/04/2021