

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 08.03.2021
CORAM

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

Crl.O.P.No.3950 of 2021
and Crl.M.P.No.2375 of 2021

1.R.M.Cyril

2.Tito @ M.Health Tito

... Petitioners

Vs.

1. The State Rep by,
The Inspector of Police,
J-5, Shastri Nagar Police Station,
Shastri Nagar, Chennai.

2. Mr.Mohammed Saleem

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to FIR in Crime No.786 of 2019 on the file of the first respondent police and to quash the entire proceedings insofar as the petitioner is concerned for the interest of justice.

For Petitioners : Mr.A.M.Esakkappan

For Respondents : Mr.M.Mohammed Riyaz
Additional Public Prosecutor
for R1

O R D E R

This petition has been filed to quash the FIR in Crime No.786 of 2019 pending investigation on the file of the 1st respondent.

2.It is seen from records that the respondent police completed the investigation and filed the closure report before the learned IX Metropolitan Magistrate, Saidapet. A protest petition was filed by the defacto complainant and the same was entertained by the learned Magistrate in Crl.M.P.No.633 of 2020. On consideration of the entire materials and also the investigation conducted by the respondent police, the learned Magistrate by an order dated 23.10.2020 has allowed the protest petition and rejected the closure report filed by the respondent

police and has directed the respondent police to further investigate this case under the direct supervision of the Assistant Commissioner of Police, Adyar Range.

3.It is brought to the notice of this Court that pursuant to the orders passed by the learned Judicial Magistrate, an Alteration Report has been filed by the respondent police on 10.11.2020. The petitioner has filed this quash petition based on the Alteration Report filed by the respondent police and has sought for the quashing of the FIR.

4.Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor appearing on behalf of the respondent police.

5.In the considered view of this Court, the Alteration Report filed by the respondent police is the direct consequence of the orders passed by the learned IX Metropolitan Magistrate, Saidapet allowing the protest petition and rejecting the closure report and ordering for a further investigation. What has been challenged before this Court is only the consequential action taken by the respondent police. Once a Magistrate passes an order under Section 156(3) Cr.P.C. or orders for a further investigation under Section 173(8) Cr.P.C., the police do not have any other option except to comply with the order. The law on this issue is well settled. Therefore, if at all the petitioner is aggrieved by the Alteration Report filed by the respondent police, the petitioner has to challenge the order of the learned Metropolitan Magistrate in the manner known to law and this petition challenging the FIR based on the Alteration Report is not maintainable.

6.In view of the above discussion, this Court is not inclined to entertain the present petition and it is left open to the petitioner to challenge the order passed by the learned Metropolitan Magistrate, Saidapet, if so advised, in the manner known to law.

7.This criminal original petition is disposed of accordingly. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

ssr

To

1. The Inspector of Police,
J-5, Shastri Nagar Police Station,
Shastri Nagar, Chennai.
2. The Public Prosecutor,
High Court of Madras, Chennai.

+lcc to Mr.Parthasarathy, Advocate, SR.No.15014.

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SMI (CO)
CSR 17.04.2021



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