

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.04.2021

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Appeal No.161 of 2021

Kaliyaperumal

... Appellant/Complainant

..vs..

Anbazhagan

... Respondent/Accused

Criminal Appeal filed under Section 14 A of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 r/w amended act 2015 to set aside the order in Cr.M.P.No.566 of 2020 passed by the learned Special Court for Exclusive Trial of SC/ST Cases, Nagapattinam dated 22.02.2021 and direct the learned Special Judge to take cognizance and proceed against the respondent/accused.

For Appellant : Mr.R.Thirumoorthy

J U D G M E N T

By consent of the learned counsel for the appellant, the matter is taken up today for final disposal at the admission stage itself, without issuing notice to the respondent.

2.This Criminal Appeal has been filed against the order dated 22.02.2021 in Cr.M.P.No.566 of 2020 on the file of the learned Special Court for Exclusive Trial of SC/ST Cases, Nagapattinam and to direct the learned Special Judge to take cognizance and proceed against the respondent/accused.

3.The learned counsel for the appellant would submit that the Appellant/complainant lodged a complaint against the respondent/ accused for the offences under Section 294(b) and 441 IPC and under Section 3(1)(x) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 [hereafter 'SC/ST Act' for the sake of convenience] before the Inspector of Police, Thiruvengadu Police Station. Based on the complaint, the Inspector of Police, Thiruvengadu Police Station investigated the matter and closed the complaint. Thereafter, the appellant filed a complaint under Section 200 Cr.P.C before the learned District and Sessions Judge, Special Court for Exclusive Trial of SC/ST Act Cases, Nagapattinam. After hearing, the learned Sessions Judge dismissed the petition. Challenging the said order, the appellant is before this Court.

4. On a careful perusal of the records and the submissions made by the learned counsel for the appellant, it would reveal that admittedly, the appellant lodged a complaint against the respondent before the Inspector of Police, Thiruvengadu Police Station. Since the allegation involved in the complaint is for the offence under Section 3(1) (x) of SC/ST Act Cases, the investigation should be done by the Deputy Superintendent of Police. However, in the present case, the Inspector of Police himself conducted a formal enquiry and closed the complaint, which is against the statutory provisions under Section SC/ST Act and he has no authority to investigate the matter and conduct enquiry.

5. The grievance of the appellant has to be filed before the Superintendent of Police. However, the appellant has not approached the Superintendent of Police against the attitude of the Inspector of Police, straight away filed the petition under Section 200 Cr.P.C before the designated Court. The learned Sessions Judge without applying his mind simply dismissed the petition.

6. In the light of the above facts, this Court finds that there is a prima facie case made out by the complainant/appellant. Since the Inspector of Police has already filed the report and closed the complaint, if once again the appellant filed the complaint before the same police station, it would prejudice the case of the appellant. The order of the learned Sessions Judge is set aside.

7. In view of the above reasonings, this Criminal Revision Case is disposed of by granting liberty to the appellant to file a fresh complaint before the Superintendent of Police, Nagapattinam. On receipt of the same, the Superintendent of Police, Nagapattinam is directed to forward the complaint to the Deputy Superintendent of Police, Nagapattinam District and to investigate the matter and file charge sheet in accordance with law. The Superintendent of Police, Nagapattinam is directed to monitor the Deputy Superintendent of Police to ensure fair investigation.

s/d-

Assistant Registrar (CS VII)

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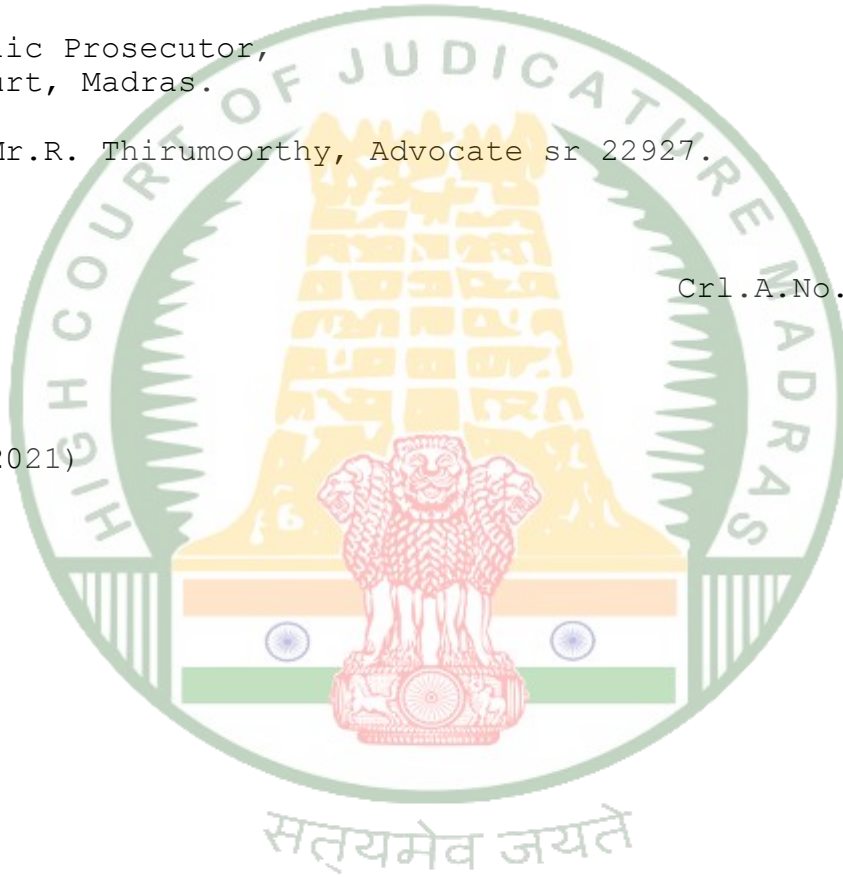
Sub-Assistant Registrar

To

- 1.The Special Judge,
Special Court for Exclusive Trial of SC/ST Cases,
Nagapattinam.
 - 2.The Superintendent of Police,
Nagapattinam District.
 - 3.The Deputy Superintendent of Police
Nagapattinam
 - 4.The Public Prosecutor,
High Court, Madras.
- +1 Cc to Mr.R. Thirumoorthy, Advocate sr 22927.

Cr1.A.No.161 of 2021

PVS (CO)
SP(30/06/2021)



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