



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 15.03.2021

CORAM

WEB COPY

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.149 of 2021

Archana (Minor)

... Petitioner/
Defacto complainant

(Represented by her Natural Guardian cum
Father Thiru.Gunasekhar)

Vs.

1.State represented by,
The Assistant Superintendent of Police,
Nagercoil Sub Division,
Kanyakumari District.

... Respondent

2.The Inspector of Police,
All Women Police Station,
Nagercoil,
Kanyakumari District.

... Respondent/Complainant

Prayer : This criminal revision case is filed under Sections 397 r/w. 401 of Cr.P.C., to call for the records pertaining to the impugned order on the file of the learned Judicial Magistrate Cum Additional Mahila Court, Nagercoil(FAC), in M.F.No.3 of 2019 dated 28.11.2019.

For Petitioner : Mr.M.P.Hariprasad

For Respondents : Mr.S.Chandrasekar

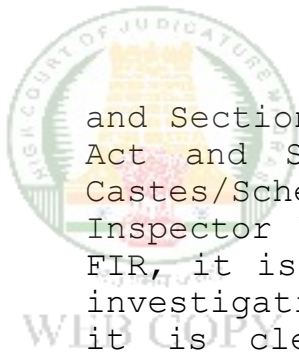
Additional Public Prosecutor

ORDER

This petition has been filed to set aside the order passed in M.F.No.3 of 2019 dated 28.11.2019, on the file of the learned Judicial Magistrate cum Additional Mahila Court, Nagercoil.

2.The petitioner is the complainant in Crime No.18 of 2019. The second respondent has filed the final report before the Judicial Magistrate cum Additional Mahila Court, Nagercoil and the final report was closed. Against the same, the petitioner preferred this revision.

3.On the side of the petitioner, it is stated that the offence against the petitioner is under Sections 294(b), 323 of IPC



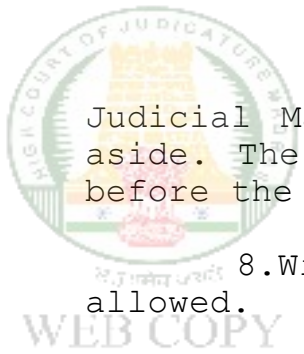
and Sections 11(1) and 12 of Protection of Child from Sexual Offence Act and Sections 3(1)(b), 3(1)(s) and 3(1)(w)(ii) of Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act. The Inspector has no jurisdiction to investigate the case. Even in the FIR, it is stated that the case was placed before the Inspector for investigation. In the final report filed by the second respondent, it is clearly stated that the investigation was done by the Inspector. The report filed by the second respondent before the learned Judicial Magistrate dated 13.05.2019 clearly reveals that the case is under Sections 3(1)(b), 3(1)(s) and 3(1)(w)(ii) of Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act.

4.It is further stated that the case was altered into SC/ST Act. The Inspector conducted investigation and filed the final report, which is illegal. The petitioner on receiving notice on 28.11.2020, tried to meet the Additional Public Prosecutor. Since the Additional Public Prosecutor was not available in the office and he was attending the Court, he could not meet the Additional Public Prosecutor. The petitioner did not know, in which Court he has to approach and only on that reason, the petitioner was not able to file the protest statement on that date and prayed the closure order to be set aside and prayed a liberty for the petitioner to file a protest petition before the lower Court.

5.On the side of the respondents, it is stated that a case in Crime No.18 of 2019 was registered under Sections 294(b), 323 of IPC and Sections 11(1) and 12 of Protection of Child from Sexual Offence Act. Later the same was altered into Sections 294(b), 323 of IPC and Sections 11(1) and 12 of Protection of Child from Sexual Offence Act and Sections 3(1)(b), 3(1)(s) and 3(1)(w)(ii) of Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act. After enquiry, the respondents came to know that the case is a 'mistake of fact' and the final report was sent to the learned Judicial Magistrate, Nagercoil. Notice was served on the petitioner and acknowledgment card was also filed before the Court. Since there was no representation on the side of the petitioner, the closure report was accepted by the learned Judicial Magistrate and the same was recorded. There is no merits in the petition and prayed the petition to be dismissed.

6.It is seen that the alteration report to include Sections 3(1)(b), 3(1)(s) and 3(1)(w)(ii) of Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act was filed before the trial Court. Though SC/ST Act was incorporated in the case, the investigation was done only by the Inspector and the Inspector has filed the final report before the trial Court. Hence, an opportunity for the petitioner to put forth his case is to be given in the interest of justice.

7.In the above circumstances, the closure order passed in
<https://hmcrcs.courts.gov.in/crscs/2019> dated 28.11.2019, on the file of the learned



Judicial Magistrate cum Additional Mahila Court, Nagercoil is set aside. The petitioner is at liberty to file the protest statement before the trial Court.

8. With the above observation, this Criminal Revision Case is allowed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

MRN

Note : In view of the present lock down owing to COVID - 19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1. The Judicial Magistrate cum Additional Mahila Court. Nagercoil.
2. The Assistant Superintendent of Police,
Nagercoil Sub Division,
Kanyakumari District.
3. The Inspector of Police,
All Women Police Station,
Nagercoil, Kanyakumari District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to:

The Section Officer,
Criminal Records Section,
Madurai Bench of Madras High Court,
Madurai. (2-copies)

Order made in
Crl. R.C. (MD) No. 149 of 2021
15.03.2021

TP (CO)

SRS (22/03/2021) 3P : 7C

<https://hcservices.ecourts.gov.in/hcservices/>