



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2022

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.744 of 2022

Lingesan

... Petitioner/Defacto-Complainant

Vs

1.The State represented by

The Sub-Inspector of Police Station,

DCB, (then) Kanchipuram Dist.

Chengalpet, Crime No.30/2014. ...1st Respondent/Complainant

2.Banumathi

3.Rajes Babshankar

4.Lalitha

5.Abboy Vijayaragavan Srinivas

6.Dhanasekaran

... Respondents 2 to 6/Accused

Prayer : Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code to direct the respondent police to further or re-investigate the case and file further charge sheet including the respondents 2 to 6 in C.C.No.196 /2015 on the file of the learned Judicial Magistrate - II, Chengalpet.

For Petitioner : Mr.P.Raja

For Respondent : Mr.R.Vinoth Raja
No.1 Government Advocate (Crl.Side)

ORDER

The criminal original petition has been filed to direct the respondent police to further or re-investigate the case and file further charge sheet including the respondents 2 to 6 in C.C.No.196 /2015 on the file of the learned Judicial magistrate - II, Chengalpet.

2.The petitioner/defacto complainant lodged a complaint against the respondents 2 to 7 and others. On his complaint, Crime No.30 of 2014 came to be registered on 27.05.2014 for offences under Sections 420 r/w 34 IPC. In the said complaint, the petitioner named eleven persons as accused viz., A1



Venkatasubbu, A2 Jayaraman, A3 Babu, A4 owner of the Classic Firms Babashankar, A5 Banumathi w/o Babashankar, A6 Abboy Vijayaragavan Srinivas, A7 Rajesh S/o.Babashankar, A8 Lalitha W/o.Rajesh, A9 Nagarajan, A10 Srinivasan, 11.Dhanasekar. After investigation, charge sheet filed, which was taken on file in C.C.No.196 of 2015 for offences under Sections 420 r/w 34 IPC against four persons viz., A1 Venkatasubbu, A2 Jayaraman, A3 Babu and A4 Babashankar.

3.The grievance of the petitioner is that the petitioner being a defacto complainant was not informed about the progress of the investigation and also filing of the charge sheet in this case. Further, right from the case of Bhagwat Singh Vs. Commissioner of Police and another reported in (1985) SCC (Cr1) 267, the Apex Court as well as this Court consistently held that in case of deleting the name of the accused found in FIR while filing the charge sheet, notice to be given to the informant so that the informant can file his objections. In this case, no notice was issued to the petitioner for deleting the name of seven accused and further, in the charge sheet, there is no reason given, for what reason, seven persons' name were deleted. The petitioner's specific complaint is that all the accused joined together conspired and committed the offences. Further, in the complaint, he made specific overtact against all the accused. These factors not properly considered. Added to it, the investigation itself is not proper, for which, the petitioner got some objection. Neither the respondent police nor the lower Court issued any notice. The petitioner was not aware about these anomaly till such date, he came to know the same, after the filing of the charge sheet and thereafter, filed the copy application, obtained the same and filed the present petition.

4.In view of the same, the petitioner is directed to approach the trial Court and file a protest petition and the same to be entertained by the trial Court, thereafter pass appropriate orders and finding that the case is of the year 2014, the trial Court to give priority and dispose of the protest petition within a stipulated period. The petitioner is at liberty to produce any other materials, which has not been considered while filing the protest petition. Accordingly, the criminal original petition is disposed of.

Sd/-

Assistant Registrar (CS-IX)

//True copy//

Sub Assistant Registrar

sms



To

1. The Judicial Magistrate No.II,
Chengalpet.

2. -do-Through The Chief Judicial Magistrate,
Kancheepuram.

3. The Sub-Inspector of Police Station,
DCB, (then) Kanchipuram Dist.
Chengalpet, Crime No.30/2014.

4. The Public Prosecutor,
High Court, Madras.

+lcc to Mr.P.Raja, Advocate SR.No.2557

CRL.O.P.No.744 of 2022

SJ(CO)
GMY(23/02/2022)