



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.04.2022

CORAM:

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Crl O.P.No.8323 of 2019

N. Rajesh Kumar

... Petitioner/Accused 6

Vs.

1. The Inspector of Police,
CCB, Team - 18,
Vepery,
Chennai.

2. R.Niraiselvi

... Respondents/Complainant &
Defacto Complainant

Prayer: Criminal Original Petition had been filed under Section 482 of Cr.P.C, praying to call for the records in Crime No.234/2018 on the file of Inspector of Police, CCB-I, Egmore, Chennai, i.e., the first respondent herein and quash the First Information Report filed in the above case.

For Petitioner : Ms.S.Menaka

For Respondents: Mr.R.Vinothraja for R1
Government Advocate (Crl.Side)
Mr.B.Damodaran for R2

ORDER

The Petition had been filed to call for the records in Crime No.234/2018 on the file of Inspector of Police, CCB-I, Egmore, Chennai and quash the First Information Report

2. When the case is taken up for hearing, the learned counsel for the petitioner sought time.

3. The learned counsel for the De-facto Complainant/R2 reminded the Court, in the earlier occasion, this Court had made observations that nobody represented on the side of the Petitioner and the interim order was not extended and also a direction was given to the Investigation Officer to proceed with the investigation.



4. The learned Government Advocate (Criminal Side) submitted that the investigation had been completed and final report is yet to be laid. He further submitted that the final report is ready regarding the other Accused, since pending the Criminal Original Petition, they have recorded the final report. In the meanwhile, the accused filed a Petition under Section 173 of Code of Criminal Procedure before the Metropolitan Magistrate, Chennai.

5. The learned Metropolitan Magistrate, Chennai, directed the Investigation Officer to file petition seeking permission to file final report against this accused. Therefore, the Investigation Officer sought a legal opinion from the Assistant Public Prosecutor. As per the legal opinion offered by the Assistant Public Prosecutor there is no necessity to seek permission of the learned Metropolitan Magistrate by filing appropriate application. The Investigation Officer can in his discretion and per the direction of this Court, proceed with the filing of the final report. Therefore, the final report is yet to be filed. Hence, this Court directed the Investigation Officer to appear before this Court with CD file.

6. The learned Counsel for the De-facto Complainant submits that another accused had filed similar petition to quash the First Information Report and it is pending in CrI.O.P.No.22942 of 2019. In continuation of the order passed by the learned Single Judge of this Court on 16.12.2021, the Interim Stay already granted was dismissed on 16.12.2021 in CrI.M.P.No.4454 of 2019.

7. In the light of the above, already sufficient time had been taken by the Accused N.Rajesh Kumar/Petitioner before this Court. On perusal of the CD file, it is found that the investigation is almost completed. The Investigation Officer is unable to file final report due to the pendency of this Criminal Original Petition. The Accused/N.Rajesh Kumar, the Petitioner herein, had thereby caused delay and he had succeeded in delaying filing the final report by 3 years by filing this petition to quash the First Information Report.

8. On perusal of the CD file, it is found that there are materials available with the Investigation Officer regarding the incriminating materials available against the Petitioner from the witnesses, who had been examined by the Investigation Officer. Only because of the Petition, the Investigation Officer's hands are tied from the filing the final report before the Court concerned. In the light of the above, it is found that in spite of preventing abuse of process of the Court, this Court has been used for the abuse of process of law by the accused. Therefore, the Criminal Original Petition is



dismissed with direction to the Investigation Officer to proceed with the investigation including this Petitioner and come to its logical conclusion and file the final report of the investigation in the Court concerned.

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Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,
CCB, Team - 18,
Vepery,
Chennai.

2.The Public Prosecutor,
High Court, Madras.

Cr1 O.P.No.8323 of 2019

SR(CO)
CT 26/05/2022