

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2022

CORAM:

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Crl.O.P.No.11629 of 2019

and

Crl.M.P.No.6012 of 2019

D.Saravanan ...Petitioner/Defacto-Complainant

Vs.

1. The Superintendent of Police,
Ariyalur District,
Ariyalur. ...1st Respondent/Respondent
2. The State rep. by,
The Inspector of Police,
Thalavai Police Station,
Ariyalur District,
Ariyalur.
(Crime No.177/2017) ...2nd Respondent/Complainant
3. R.Palanivel ...3rd Respondent/Accused

PRAYER: Criminal Original Petition had been filed under Section 482 of Cr.P.C, praying to quash the charge sheet filed by the 2nd respondent in S.C.No.44 of 2018 on the file of learned Principal District and Sessions Judge, Ariyalur and to direct any other investigation agency to conduct fresh investigation in this case of the Crime No.177 of 2017.

For Petitioner : Mr.R.Vivekananthan

For Respondents : Mr.S.Vinoth Kumar, [for R1 & R2]
Government Advocate (Crl.Side)
Mr.C.Prabakaran [for R3]

ORDER

This petition had been filed praying to quash the Charge Sheet filed by the Second Respondent in S.C.No.44 of 2018 on the file of the learned Principal District and Sessions Judge, Ariyalur and to direct any other Investigation Agency to conduct fresh investigation in the case of the Crime No.177 of 2017.

2. The learned Counsel for the Petitioner submitted that the Petitioner is the De-facto Complainant and listed witness No.1 in the Charge Sheet. It is the contention of the Petitioner that his father was found severely injured. He took his father to hospital and on the way to hospital, he died. Therefore, the body was taken back home and thereafter, he preferred a complaint. Based on the complaint, FIR was registered and investigation also commenced. In the Charge Sheet and in the Observation Mahazer, it had been stated that the body of the father of the Petitioner/De-facto Complainant was found in the place where it was actually found by the De-facto Complainant and as though the Police had secured the body. If that error is allowed to be continued, it amounts to travesty of justice. Therefore, he seeks to quash the entire Charge Sheet and order fresh investigation regarding the objections raised by the Petitioner alone.

3. The learned Government Advocate (Criminal Side) appearing on behalf of the Prosecution submitted that already final report of the investigation was laid before the Court and it had been committed and is pending as S.C. No. 44 of 2018 on the file of the learned Sessions Judge, Ariyalur. Therefore, he sought dismissal of this petition.

4. The learned Counsel for the Respondent No.3 also vehemently objected to the submission of the learned Counsel for the Petitioner stating that what are all raised by the Petitioner can be considered when the Petitioner is examined as a witness before the Trial Court. The said submission of the learned Counsel for the Respondent No.3 is found unacceptable considering the fact that the final report is now pending before the Court.

5. Considering the vehement objections of the learned Counsel for the Petitioner the learned Session Judge is directed not to proceed with the Trial till additional Charge Sheet is filed based on the objections raised by the Petitioner/De-facto Complainant in Criminal O.P. No. 11629 of 2019, regarding the place where the body of the deceased was secured by the Investigation Officer as per the version of the Petitioner herein/De-facto Complainant.

6. Based on the submission of the learned Counsel for the Petitioner, the Investigating Officer is directed to file additional Charge Sheet before the Court of the learned Session Judge, Ariyalur, after obtaining permission from the learned Sessions Judge through the learned Public Prosecutor attached to the Court of the learned Sessions Judge within a reasonable period of three months from the date of receipt of the copy of this order. The learned Sessions Judge is directed not to

proceed till the Additional Charge Sheet is filed.

7.In the result, this Criminal Original Petition is disposed of. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal District and Sessions Judge,
Ariyalur.
2. The Superintendent of Police,
Ariyalur District,
Ariyalur.
3. The Inspector of Police,
Thalavai Police Station,
Ariyalur District,
Ariyalur.
4. The Public Prosecutor
High Court, Madras.

+1cc to M/s.C.Prabakaran, Advocate, S.R.No.29601

+1cc to M/s.R.Vivekananthan, Advocate, S.R.No.30185

Crl.O.P.No.11629 of 2019
and
Crl.M.P.No.6012 of 2019

RSV(CO)
RGA(23/06/2022)