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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2022

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THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CRL.R.C.NO.647 OF 2021

M.Raja

...Petitioner

Vs.

State Represented by,
The Inspector of Police,
V-5, Thirumangalam Police Station,
Chennai-40.

...Respondent

PRAYER : The Criminal Revision Case is filed under Section 397 r/w 401 of the Code of Criminal Procedure, pleaded to call for the records in Crl.M.P.SR.No.11039 of 2019 on the file of the Principal Sessions Judge, City Civil Court, Chennai in Crime No.445 of 2014, V-5, Thirumangalam Police Station and set aside the same.

For Petitioner : Mr.R.Sankarasubbu

For Respondent : Mr.S.Sugendran
Government Advocate(Crl.Side)

O R D E R

(This case has been heard through Video Conferencing)

This Criminal Revision has been filed to set aside the order passed by the learned Principal Sessions Judge, City Civil Court, Chennai, vide order dated 02.09.2021 in Crl.M.P.SR.No.11039 of 2013, dismissing the petition filed by the petitioner, seeking to direct the Respondent to file positive final report in Cr.No.445 of 2021.

2. Learned counsel appearing for the petitioner would submit that based on the complaint given by the petitioner, the case in Crime No.445 of 2014 was registered by the Respondent/Police against the accused under the Sections 465, 467, 471 of IPC, 3(1)(iv) & 3(1)(v) pf SC/ST (Prevention of Atrocities) Act, 1989. Since, the investigation was not done properly, the petitioner had filed Crl.M.P.SR.No.11039 of 2014 before the learned Principal Sessions Judge, City Civil Court,



Chennai, seeking for a direction to the Respondent to file a positive final report. During the pendency of the petition, the Respondent had filed a final report referring the case as mistake of fact and civil in nature and further action in this case was dropped. The learned Judge, without giving an opportunity to the petitioner to file a protest petition, had accepted the final report and dismissed the petition. The petitioner being a de facto complainant is entitled to copy of the final report and he was not served with the same and he is also entitled to file a protest petition. Thereby, he would seek to set aside the impugned order.

3. Mr.S.Sugendran, learned Government Advocate (Crl.Side) would submit that the petitioner had filed a complaint stating that they belongs to the Scheduled Caste community and that they have been illegally dispossessed from the Cheri Poramboke land allotted to them by the accused. The respondent conducted enquiry and based on the revenue records, it was found that the property is Natham Poramboke and no offence was made out against the accused and the respondent had dropped further action. He would further submit that the final report was filed before the Special Court, Chennai on 29.01.2020 and the copy of the final report has not been served on the de facto complainant. He would submit that the copy of the final report will be served on the counsel for the petitioner today.

4. Heard the learned counsel and perused the materials on record.

5. Based on the complaint given by the petitioner, the case has been registered in 2014. since, the investigation was not done properly, the petitioner had filed the Crl.M.P.SR.No.11039 of 2019 seeking to file the positive final report. During the pendency of the same, the Respondent has filed the final report. Though the prayer seeking for a direction to the respondent to file a positive final report cannot be sustained, the Special Court without affording an opportunity to the petitioner to challenge the final report by way of protest petition, had dismissed the petition and had accept the final report. The procedure adopted by the learned Special Judge is erroneous. The petitioner as defacto complainant is entitled to copy of the final report. It is submitted by the Government Advocate that a copy of the final report has been served on the counsel for the petitioner during the pendency of the petition. The Revision Stands allowed, the impugned order accepting the final report is set aside. The petitioner is granted liberty to challenge the final report by way of filing the protest petition before the Special Court within a period of two weeks from the date of receipt of copy of this order.



6. The Criminal Revision case is ordered accordingly.

Sd/-
Assistant Registrar (CS-IX)

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Sub Assistant Registrar

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To

1. The Principal Sessions Judge,
City Civil Court,
Chennai.
2. The Inspector of Police,
V-5, Thirumangalam Police Station,
Chennai-40.
3. The Public Prosecutor,
High Court,
Madras.

Cr1.R.C.No.647 of 2021

PL (CO)
RVM (17/02/2022)