



Crl.R.C.No.890 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 03.11.2022

Pronounced on : 11.11.2022

Coram:

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

Crl.R.C.No.890 of 2021

and

Crl.O.P.Nos.4942 & 7499 of 2019

and

Crl.M.P.Nos.2892, 2893 /2019, 280/2020, 4279, 4280 & 12448 of 2021

Crl.R.C.No.890 of 2021

Dr.P.Thomas

.. Petitioner

/versus/

State rep by
The Inspector of Police,
K-1, Sembium Police Station,
Chennai-600 011.
(Crime No.1418 of 2017)

.. Respondent

Crl.O.P.No.4942 of 2019

Dr.P.Thomas

.. Petitioner

/versus/

1.State rep by



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The Inspector of Police,
K-1, Sembium Police Station,
Chennai-600 011.

2.Mrs.Ramya

.. Respondents

Crl.O.P.No.7499 of 2019

Ramya

.. Petitioner

/versus/

1.The Inspector of Police,
K-1, Sembium Police Station,
Chennai-600 011.

2.The Commissioner of Police,
Chennai City, Veppery,
Chennai-600 007.

.. Respondents

Prayer in Crl.R.C.No.890 of 2021: Criminal Revision Case has been filed under Section 397 r/w 401 of Cr.P.C., to call for the records and set aside the order of framing of charges in S.C.No.97 of 2019 before the Mahila Court, Chennai.

Prayer in Crl.O.P.No.4942 of 2019: Criminal Original Petition has been filed under Section 482 of Cr.P.C., praying to call for the records in P.R.C.No.77 of 2018 on the file of the V Metropolitan Magistrate, Egmore, Chennai and quash the same.

Prayer in Crl.O.P.No.7499 of 2019: Criminal Original Petition has been filed under Section 482 of Cr.P.C., praying to direct the 2nd respondent police to conduct further investigation in Crime No.1418/2017 by superior officer under his supervision under Section 173 (3) Cr.P.C in the above case



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by examining the material witnesses and also to file a further charge sheet after completing the further investigation in the above case.

For Petitioner in Crl.R.C & : Mr.C.Manishankhar, Sr.C. for
Crl.O.P.No.4942/2019 Mr.Ashwinkumar

For petitioner in Crl.O.P :
No.7499/2019 : Mr.K.M.Subramanian

For Respondent in Crl.R.C. : Mr.N.S.Suganthan
For R1 in Crl.O.P.No.4942/2019 Govt.Advocate (Crl.Side)
For R1& R2 in Crl.O.P.7499/2019

ORDER

The Criminal Original Petitions under Section 482 Cr.P.C for quash and Criminal Revision Petition Under Section 397 r/w 401 Cr.P.C to set aside the charges framed for trial along with Miscellaneous Petitions are filed by one Dr.P.Thomas.

2. The petitioner Dr.P.Thomas is arrayed as first accused in the case investigated by the Inspector of Police,, K-1, Sembium Police Station, on the complaint given by one Dr.Ramya, a former employee under the petitioner herein, who alleged to have been attacked by the henchman of the



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petitioner for establishing her own fertility hospital competing petitioner's business.

3. In the complaint, it is stated that on 04.10.2017 at about 08.15 p.m., while Dr.Ramya returned home, she was restrained from entering her house and attacked by a stranger with knife and caused injuries on her head and shoulder. While attacking the assailant uttered in tamil which near translation is “you are dare to start a rival hospital against Thomas after working for him. Only if you are alive you can run the hospital, will finish you today.” On hearing her scream, her father came out from the house. On seeing her father, the assailant jumped the gate and fled with his accomplice waiting outside her house in a two wheeler bike.

4. On receipt of intimation from MIOT hospital, where Dr.Ramya was admitted for treatment, the respondent police went to the hospital and recorded the statement of the injured victim. The First Information Report in Crime No.1418/2017 was registered by the first respondent police against



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two unknown persons for offences under Sections 341, 324, 307 and 109 IPC. The case was taken up for investigation. The assailant was identified as Palanisamy (A-4) and his accomplice, who was waiting in the two wheeler and assisted him to fled after the attack was identified as Mugilan (A-5). Based on their confession and on further investigation, the petitioner (A-1) who is the proprietor of Chennai Fertility Centre and Research Institute and his staff Yona (A-2) , Sathiyakala (A-3) and Bhavani (A-5) were found involved in the crime. In pursuant to the conspiracy hatched between the accused persons, to kill Dr.Ramya who worked with A-1 and learned the trade trick and started a fertility hospital by name Jeevan Mithra Fertility Hospital, A-4 was engaged to commit murder. In the course, Dr.Ramya was brutally attacked but survived after medical intervention.

5. Mr.Jaganathan, the Inspector of Police who investigated the crime, on completion of investigation filed Final Report before the V Metropolitan Magistrate, Egmore. Same report was taken on file in P.R.C. No: 77/2018. The Learned Metropolitan Magistrate on perusing the records,



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found the case fit for trial by Sessions Court, hence committed the case to the Principal Sessions Court on 15.02.2019 and same was taken on file as S.C. No: 97/2019.

6. While so, the Investigating Officer, thought fit the case requires further investigation. Hence filed petition before the learned V Metropolitan Magistrate, Egmore, Chennai seeking leave to do further investigation. On obtaining leave, conducted further investigation. Recorded further statement of witnesses and filed supplementary Final Report on 08/08/2019 along with alteration of charges report. On perusing the Final Report and the supplementary Final Report, the trial Court framed the following charges:

Charge 1: Against A-1 to A-6 offence u/s 120B r/w 302 IPC.

Charge 2: Against A-4 offence u/s 341 IPC. Against A-5 offence u/s 341 r/w 34 IPC. Against A-1 to A-3 and A-6 offence u/s 341 r/w 109 IPC.

Charge 3: Against A-4 offence u/s 307 IPC. Against A-5 offence u/s 307 r/w 34 IPC. Against A-1 to -3 and A-6 offence under Section 109 r/w 307 IPC.



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7. In other words, A-1/the petitioner is charged along with other accused for conspiracy to commit murder of Dr.Ramya. In pursuant to the conspiracy, he abetted A-4 to wrongfully restrain her from entering her house and attack her with deadly weapon with intention to cause death and attempted to end her life.

8. The petitioner herein since the registration of the complaint, been filing petitions before this Court for various reliefs. Before listing the particulars of those petitions, for completion of narration of the facts, it is appropriate at this juncture to record that after registration of the above complaint in Crime No.1418/2017 which is subject matter of the present Criminal Original Petition and Criminal Revision Case, one more criminal case in Crime No.1561/2017 was registered against this petitioner (Dr.P.Thomas) and two others (Sathyakala and Bhavani) on 01/11/2017 by the Sembium Police on the complaint given by one Nirmala (sister of Dr.Ramya) alleging that she was attacked with knife with intention to kill her. On 04.11.2017, this petitioner was termed as goonda and detained



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under the Preventive Detention, 1982. The detention order was quashed by the High Court by order dated 11/12/2017 in HCP No: 2145/2017. Thereafter, a third criminal case against this petitioner was registered at Arumbakkam Police Station on the complaint given by Dr.Ramya alleging that the petitioner and others on 18/09/2018 at 12.15 hrs seen near her house and doing some suspicious act, causing annoyance. The complaint in Crime No.454/2018 came to be registered on 26/09/2018.

9. In the said factual background, the petitioner filed Crl.O.P.No. 29837 and 29839 of 2018 to transfer the investigation of Crime No. 1418/2017 and 1561/2017 from the first respondent (Inspector of Police, Sembium Police Station) to any other independent investigation agency viz. CBCID . In the said petitions seeking transfer of investigation, it has been alleged that vested interest acted against the defacto complainant with connivance of the Inspector of Police attached to Sembium Police Station and determined to close the hospital run by the petitioner. As a result of the ill design, the Inspector of Police attached to Sembium Police Station is



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stand upon to foist the cases against the petitioner. Therefore, he has lost the confidence and faith of impartiality.

10. This Court after considering the submissions that though the Inspector of Police denied any personal interest in the case, found merit in the request of the petitioner and passed the following order on 20.12.2018:-

“6.In the facts and circumstances of the cases, this Court is of the considered view that in order to ensure that the investigation is carried out effectively and independently without any doubts cast upon the investigating officer, it would be better if the investigation in Crime Nos.1420 of 2017 and 1561 of 2017 is continued by some other police officer. In view of the specific stand taken by the learned Additional Public Prosecutor to the effect that the investigation can be conducted by any investigating officer and the second respondent does not have any personal interest in the case, this Court deems it fit to direct the Deputy Commissioner of Police, Pulianthope, to assign the investigation in these cases to another



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police officer in the rank of Inspector of Police, which will be monitored by the concerned Assistant Commissioner of Police. By resorting to this exercise, neutrality in the investigation can be maintained and the real truth behind the alleged incident will get revealed.

7. In view of the above, the Deputy Commissioner of Police, Pulianthope is directed to immediately assign the task of investigation in Crime Nos. 1420 of 2017 and 1561 of 2017 to some other police officer in the rank of Inspector of Police and direct the investigation to be monitored by the concerned Assistant Commissioner of Police. The second respondent police is directed to immediately hand over the case diary to the Deputy Commissioner, Pulianthope to enable the transfer of investigation in accordance with the directions given by this Court.”

11. Though specific direction was issued by this Court to transfer the investigation from Sembium Police Station, that never happened. The



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same police against whom the allegations were made and directions were given to hand over the case diary to the Deputy Commissioner of Police, Pulianthope to enable him to transfer the investigation and continue to handle the case. He has filed counter and vacate stay petition in the present Criminal Original Petition. He has also taken out an application before the Metropolitan Magistrate, Egmore, Chennai seeking permission for further investigation. This application dated 27.05.2019 filed after the case was committed to the Sessions Court and taken on file in S.C.No.97 of 2019 dated 15.02.2019.

12. The learned counsel for the petitioner therefore, vehemently argued that the malafide intention of the Investigating Officer in this case is apparently seen on the records and various actions starting from committing of disobedience of the order passed by this Court on 20.12.2018 by not handing over the case file to transfer the investigation and further inactively participated in the proceedings pending in the Court knowing fully well, the *de facto* complainant has approached the High Court in Crl.O.P.No.7499 of



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2019 seeking further investigation and he has approached the Magistrate who has already committed the Sessions Court and got permission illegally for further investigation and filed additional final report fabricating records in the name of further statements of witnesses. Therefore, submitted that the petition in Crl.O.P.No.4942 of 2019 filed to call for the records in P.R.C.No.77 of 2018 on the file of V Metropolitan Magistrate, Egmore, Chennai and quash the same may be allowed.

13. The learned counsel for the petitioner would submit that the conduct of the Investigating Officer who has proceeded with the investigation, filing of final report and additional report despite the direction by this Court to transfer the investigation is non est in law. Further the learned counsel for the petitioner would also submit that the illegal and improper final report along with additional final report filed by the tainted Investigating Officer being taken on file by the Sessions Court and has framed charges, which are also not in consonance with the facts of the case. Hence, the petitioner is taken out separate revision petition in



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Crl.R.C.No.890 of 2021 to set aside the charges framed improperly in S.C.No.97 of 2019 pending on the file of the Mahila Court, Chennai.

14. The learned Government Advocate (Crl.Side) appearing for the State would submit that the 1st respondent has handed over the case diary to Deputy Commissioner of Police, Pulianthope to enable him to assign the task of investigation in Crime No.1420 of 2017 and Crime No.1561 of 2017 to some other police in the rank of Inspector of Police. The present case investigated and final report also filed only in respect of Crime No.1418 of 2017. In so far as the application filed for further investigation before the Judicial Magistrate is in consonance with the provisions of law, it is prerogative of Investigating Officer to seek further investigation, if there is a reasonable belief for proceeding with further investigation after filing final report. As far as the charges framed by the Sessions Court are concerned, the learned Government Advocate (Crl.Side) would submit that since the offence has been committed pursuant to the conspiracy and material available on record indicates that the petitioner abetted the other accused



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namely A3 and A4 to commit the crime, the charge framed as such is sustainable.

15. The learned counsel for the *de facto* complainant would submit that unable to see the growth of Dr.Ramya, who has established Fertility Center, and posing a threat to his hospital, the petitioner herein conspired with other accused to kill Dr.Ramya and eliminate her. Hence based on the material, the trial Court has framed charge against this petitioner and the other accused for the offence under Section 120 b r/w.302 I.P.C., since their out come of the conspiracy was to murder Dr.Ramya. Pursuant to the said conspiracy A4 along with A5 went to the house of Dr.Ramya on 04.10.2017 and brutally attacked her with an intention to kill her. However, Dr.Ramya survived. Hence a charge for attempt to murder against the assailants and charge against this petitioner for abetting the assailants to attempt to take the life of the *de facto* complainant.



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16. This Court on perusing the record finds that in Crl.O.P.No.29837 and 29839 of 2018, the prayer sought by the petitioner is found in the preamble portion of the order dated 20.12.2018. It is clear that the petitioner sought for transfer of investigation of cases in Crime Nos.1418 and 1561 of 2017. While narrating the facts and concluding, by inadvertence instead of Crime No.1418 of 2017 in the order it is shown as Crime No.1420 of 2017. This error has not been noticed by any of the party concerned till recently. So taking advantage of the error in the order, the Investigating Officer had continued the investigation and filed a final report. Crime No.1420 of 2017 is a complaint registered on 06.10.2017 at the behest of a Tea shop owner for an incident alleged to have been happened on 04.10.2017, wherein two of the accused in Crime No.1418 of 2017 are shown as accused in Crime No.1420 of 2017 but not this petitioner. Taking advantage of the error, the Investigating Officer has proceeded and filed a final report, but the fact remains that the manner in which he has proceeded to file the final report, the day on which the quash petition was filed and in spite of the order to transfer the investigation and subsequent conduct of the



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Investigating Officer filing petition for further investigation before the Metropolitan Magistrate after he committing the case in P.R.C.No.77 of 2019 and taken on file by the Sessions Court on committal and assigned S.C.No.97 of 2019 all goes to show that the manner in which the investigation has not been done fairly and in accordance with law. Therefore, it is necessary to interfere with the matter by exercising power under Section 482 of Cr.P.C., to prevent the abuse of process of law and miscarriage of justice. Accordingly, this Court pass the following composite directions in these two petitions:

(1) the status of the investigation in the Crime No.1418 of 2017 is restored to 20.12.2018. Consequently the committal of P.R.C.No.77 of 2018 to the Court of Sessions, the additional final report and charges framed pursuant to taking cognizance of the case on committal is hereby quashed.

(2) The further investigation shall continue by CBCID, Chennai. The Director General of Police, CBCID is directed to entrust the investigation by an officer in the rank of Inspector or above to investigate and file additional/supplementary final report.



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17. With the above directions, these Criminal Original Petitions and Criminal Revision Case is disposed of. Consequently, the connected Criminal Miscellaneous Petitions are closed.

11.11.2022

Index:yes
speaking order/non speaking order
rpl

To :

- 1.The Inspector of Police,
K-1, Sembium Police Station,
Chennai-600 011.
- 2.The Mahila Court, Chennai.
- 3.The V Metropolitan Magistrate, Egmore, Chennai
- 4.The Public Prosecutor, High Court, Madras.



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DR.G.JAYACHANDRAN,J.

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