



WEB COPY



Crl.R.C.No.970 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.11.2022

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Crl.R.C.No.970 of 2021

and

Crl.M.P.Nos.13030 & 13031 of 2021

P.Subbu

... Petitioner

Vs.

State by

The Inspector of Police (L& O),

E.I.Singanallur Police Station,

Coimbatore.

... Respondent

Prayer: Criminal Revision Case filed under Section 397 & 401 of Cr.P.C., to call for the records of the learned Judicial Magistrate No.III, Coimbatore, and set aside the order passed in Crl.M.P.No.3702 of 2018 in C.C.No.31 of 2018 dated 16.11.2021 in dismissing the petition filed by the petitioner herein for fresh investigation in the above case in Crime No.705 of 2014 on the file of the respondent police.

For Petitioner : Mr.M.Purushothaman

For Respondent : Mr.Sugendran
Additional Public Prosecutor



Crl.R.C.No.970 of 2021

ORDER

WEB COPY This Criminal Revision Case has been filed against the order dated 16.11.2021 passed in Crl.M.P.No.3702 of 2018 in C.C.No.31 of 2018 on the file of the learned Judicial Magistrate No.III, Coimbatore.

2. The petitioner filed a petition in Crl.M.P.No.3702 of 2018 in C.C.No.31 of 2018 on the file of the learned Judicial Magistrate No.III, Coimbatore, under Section 173 Cr.P.C., seeking for further investigation. The learned Magistrate dismissed the petition on the ground that the Magistrate has no power either to transfer the investigation to different agency or order fresh investigation. Challenging dismissal order passed by the learned Magistrate, the petitioner has filed the present Criminal Revision Case.

3. Learned counsel for the petitioner submitted that in this case, the Investigating Officer who said to have recorded the statement under Section 161(3) Cr.P.C., from the complainant and their witnesses, actually was not in the spot on the particular day and the Investigating Officer never



Crl.R.C.No.970 of 2021

summoned the witnesses for recording the statement. The information received from the officer of the Commissioner of Police, Coimbatore/ Public Information Officer under the RTI Act, clearly shows that the Investigating Officer was not in the spot on that particular date and he was in other duty and he was also out of station. Charge sheet has been taken on file in C.C.No.31 of 2018 and the same is pending for trial without any progress.

4. Learned Additional Public Prosecutor appearing for the respondent submitted that charge sheet has been filed and the same has also been taken on file in C.C.No.31 of 2018. At this stage, the learned Magistrate cannot order further investigation by different agency and cannot also issue direction for fresh investigation.

5. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent and perused the materials available on record.



Crl.R.C.No.970 of 2021

6. The main allegation of the petitioner is that co-employee, who is the Sub-Inspector of Police was alleged to have had illegal intimacy with his wife and their children were also witnesses to the same. Based on the petitioner application in Crl.O.P.No.26073 of 2012 on the file of this Court, F.I.R has been registered in Crime No.10 of 2014 on the file of the All Women Police Station, Coimbatore. Further, without intimation, the said case has been transferred to E-1, Singanallur Police Station, Coimbatore. It is stated that the Investigating Officer conducted investigation and has also recorded statement under Section 161(3) Cr.P.C., from the de-facto complainant and other witnesses on 06.12.2017. The information received from the Public Information Officer under the RTI Act, clearly shows that the Investigating Officer was on other duty and he was also out of station on that particular day. It clearly shows that no fair investigation has been conducted in this case. Therefore, this Court finds that action of the Investigating Officer itself is unfair.

7. In view of the above discussion, this Court set asides the entire proceedings including the charge sheet filed by the respondent/ Police in



Crl.R.C.No.970 of 2021

C.C.No.31 of 2018 on the file of the learned Judicial Magistrate No.III, Coimbatore. Further, this Court directs the respondent police to transfer the complaint filed by the de-facto complainant to the jurisdictional Crime Branch CID, which is to investigate the matter independently in a fair manner and treat the defacto complainant in a dignified manner and record statement under Section 161 Cr.P.C from the witnesses in the manner known to law and file a charge sheet within three months from the date of receipt of a copy of this order. It is made clear that no further time will be granted. If there is any deviation, the same will be viewed seriously. The Commissioner of Police, Coimbatore is also directed to take action against the Investigating Officer, who erred in the proceedings.

8. With the above observations and direction, the Criminal Revision Case is allowed. Consequently, connected miscellaneous petitions are closed.

28.11.2022

mfa
Index:yes/No
Speaking Order: Yes/No

5/7



WEB COPY



Crl.R.C.No.970 of 2021

To

1. The Judicial Magistrate No.III,
Judicial Magistrate No.III Court,
Coimbatore.
2. The Inspector of Police (L& O),
E.I.Singanallur Police Station,
Coimbatore.
3. The Public Prosecutor,
High Court,
Chennai.
4. The Commissioner of Police,
Coimbatore.



WEB COPY



Crl.R.C.No.970 of 2021

P.VELMURUGAN, J.

mfa

Crl.R.C.No.970 of 2021
and
Crl.M.P.Nos.13030 & 13031 of 2021

28.11.2022