

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.R.C.No.1014 of 2021

Eswaran

.. Petitioner

Vs

1. Senthilkumar

2. The State rep. by
The Inspector of Police
Palladam Police Station
Palladam, Tiruppur District.

[R2 impleaded as per order dated 14.06.2022
in Crl.M.P.No.6473 of 2022
in Crl.R.C.No.1014 of 2021]

.. Respondents

Prayer: Criminal Revision Case filed under Section 397 read with 401 Cr.P.C, to call for records pertaining to the order dated 10.11.2021 made in CMP.No.3365 of 2021 passed by learned Judicial Magistrate, Palladam and set aside the same.

For Petitioner : Mr.P.Kalimuthu

For Respondent 1 : Mr.N.Ponraj

O R D E R

This revision is filed aggrieved by the order of the learned Judicial Magistrate, Palladam, dated 10.11.2021 in Crl.M.P.No.3365 of 2021, in and by which the application filed by the petitioner, to refer his complaint dated 12.04.2021 for investigation by the respondent police as per the provisions of Section 156(3), has been rejected by the Trial court.

2. In the said application, the respondent police is not made as a party and it is also seen that the affidavit, as required as per the judgment of the Hon'ble Supreme Court in Priyanka Srivatsava and another vs State of UP¹, was also not filed. However, the Trial Court rejected the application on the ground that the petitioner did not produce photograph, which may not be per se correct.

1 [2015 6 SCC 287]

3. But, however, no exception can be taken by the Trial Court in rejecting the application for want of the affidavit and in that view of the matter, the order dated 10.11.2021 in CrI.M.P.No.3365 of 2021 is set aside. The CrI.M.P.No.3365 of 2021 is remanded back to the file of the learned Judicial magistrate, Palladam. The petitioner will be at liberty to implead the respondent police as the respondent in the said application and also file the necessary affidavit in support of the application and thereafter, the same shall be considered on merits by the learned Judicial Magistrate in accordance with law.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Judicial Magistrate, Palladam, Tiruppur District.
2. - do through The Chief Judicial Magistrate,Coimbatore.
3. The Inspector of Police
Palladam Police Station
Palladam, Tiruppur District.
4. The Public Prosecutor, High Court of Madras.

COPY TO
The Section Officer,
Criminal Section,
High Court, Madras-104.

CrI.R.C.No.1014 of 2021

SKM(CO)
CT/13/07/2022