



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.01.2022

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P(MD)No.368 of 2022

D.Vinoth Mathavan

... Petitioner

Vs.

1.The Commissioner of Police,
O/o. The Commissioner of Police,
Tirunelveli City.

2.The Inspector of Police,
CB CID,
Perumalpuram,
Tirunelveli District.

3.The Inspector of Police,
Palayamkottai Police Station,
Tirunelveli City.
(Crime No.440 of 2019)

... Respondents

Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to direct the respondent No.1 to withdraw the case in Crime No.440 of 2019 dated 20.09.2019 under Section 174 of CrPC on the file of the respondent No.3 and entrust the same to the respondent No.2 for fair investigation and file a report before the competent Court.

For Petitioner : Mr.I.Pinaygash
For Respondents : Mr.M.Sakthi Kumar,
Govt. Advocate (Crl. Side).

O R D E R

Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) for the respondents.

2.The petitioner is the defacto complainant in Crime No.440 of 2019 registered on the file of Palayamkottai Police Station under Section 174 of CrPC. The petitioner's brother Mr.Vijayasrinivasan aged about 27 years committed suicide by hanging. The petitioner's specific stand is that his brother had availed loan from some private parties and that due to the coercive pressure exerted by them demanding exorbitant interest, he committed suicide. Though



the case was registered on 20.09.2019, till date, there is no progress in the investigation. Seeking transfer of investigation, this criminal original petition came to be filed.

3. When the matter was taken up for hearing, the learned Government Advocate (Crl. Side) produced the copy of the final report dated 22.02.2020 filed before the Taluk Magistrate (Tahsildar), Palayamkottai for closing the case as further action dropped. It appears that the final report was not filed before the Judicial Magistrate concerned. The third respondent is directed to file the final report before the jurisdictional Magistrate and serve a copy of the same on the petitioner. The jurisdictional Magistrate shall cause issuance of RCS notice to the petitioner so that the petitioner can file a protest petition. It is well settled that the final report filed by the police is not binding on the Magistrate and that after hearing the parties concerned, the Magistrate can even reject the final report. Since a specific stand has been taken by the third respondent, the question of transfer of investigation at this stage does not arise. However, the other grievance expressed by the petitioner deserves to be considered. The petitioner's car had been pledged by his brother with some private parties. A sum of Rs.1,50,000/- was taken as a loan. It is stated that the petitioner's signature was taken in the transfer form only for security purpose. It is claimed by the petitioner that a sum of Rs.75,000/- was already returned. However, the creditors are declining to return the car and they are demanding that the petitioner should pay a further sum of Rs.3,00,000/-. In this regard, the petitioner as well as his father have given complaint before various police authorities. The petitioner is permitted to lodge a fresh complaint before the third respondent. The third respondent is directed to receive the complaint and take action thereon on merits and in accordance with law without any delay.

4. This criminal original petition is disposed of with the aforesaid directions.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To:

- 1.The Commissioner of Police,
O/o. The Commissioner of Police,
Tirunelveli City.
- 2.The Inspector of Police,
CB CID,
Perumalpuram,
Tirunelveli District.
- 3.The Inspector of Police,
Palayamkottai Police Station,
Tirunelveli City.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.I.PINAYGASH, Advocate (SR-1548[F] dated 12/01/2022)

Cr1.O.P(MD)No.368 of 2022
12.01.2022

RD(31.01.2022) 3P 6C