



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.02.2022

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Cr1.O.P. (MD) .No. 1663 of 2021

Daniel Mani

...Petitioner/
Defacto Complainant

Vs.

1. The State of Tamil Nadu
represented through its
The Superintendent of Police,
Kanyakumari District @ Nagercoil.
2. The Deputy Superintendent of Police,
Kanyakumari Range
Kanyakumari
3. The Inspector of Police,
Kanyakumari Police Station,
Kanyakumari.
4. The Sub Inspector of Police,
South Thamaraikulam Police Station,
Kanyakumari District.
5. B.Prema,
The Sub Inspector of Police,
South Thamaraikulam Police Station,
Kanyakumari District

...Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C. to issue a direction, directing the first respondent police to transfer the further/re-investigation in FIR in Crime No.199 of 2008, from the file of the fourth respondent to the second respondent and further the same to be monitored by the first respondent.

For Petitioner : Mr.P.M.Vishnuvarthanan

For Respondents : Mr.R.M.Anbunithi

Additional Public Prosecutor

**ORDER**

This Criminal Original Petition has been filed praying to direct the first respondent police to transfer the further/re-investigation in FIR in Crime No.199 of 2008, from the file of the fourth respondent to the second respondent and further the same to be monitored by the first respondent.

2. The petitioner lodged a complaint as against the fifth respondent and the same was registered in Crime No.199 of 2008 on the file of the third respondent for the offences under Sections 147, 148, 425, 427 and 380(NP) of Indian Penal Code.

3. The third respondent filed a counter stating that pursuant to the complaint an FIR has been registered and subsequently, the same was closed as 'mistake-of-fact' and referred charges sheet has also been filed before the jurisdictional Magistrate. Infact the petitioner filed the direction petition before this Court to complete the investigation in Crime No.199 of 2008.

4. This Court by an order dated 23.07.2015, had recorded the submission made by the third respondent that the complaint has been closed as mistake of fact. However, the second respondent was directed to serve the copy of the referred charge sheet to the defacto complainant, within a period of two weeks from the date of receipt of a copy of that order. But, the petitioner again approached this Court after a period of six years, to transfer the further / reinvestigation in Crime No.199 of 2008 from the file of the third respondent to the second respondent. The petitioner had knowledge about the closure of FIR in Crime No.199 of 2008 as mistake of fact. Even then, now the petitioner filed this criminal Original Petition to transfer the further / reinvestigation in Crime No.199 of 2008, on the ground that when he applied for copy of the referred charge sheet, it was returned by the learned Judicial Magistrate No.3, Nagarkoila, for the reason that the records were already destroyed and no such record is available.

5. The prayer sought for by the petitioner in this Criminal Original Petition cannot be granted, since already a detailed investigation has been conducted and filed the referred charge sheet as early as on 15.03.2010. However, the third respondent is directed to serve a copy of the referred charge sheet in Crime No.199 of 2008 to the petitioner within a period of four weeks from the date of receipt of a copy of the order.



6. With the above directions, this Criminal Original Petition stands dismissed.

Sd/-
Assistant Registrar(AD I)

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/ /2022

Sub Assistant Registrar

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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 Judicial Magistrate No. III,
Nagercoil.
2. The Superintendent of Police,
Kanyakumari District @ Nagercoil.
3. The Deputy Superintendent of Police,
Kanyakumari Range, Kanyakumari
4. The Inspector of Police,
Kanyakumari Police Station,
Kanyakumari.
5. The Sub Inspector of Police,
South Thamaraikulam Police Station,
Kanyakumari District.
6. The Sub Inspector of Police,
South Thamaraikulam Police Station,
Kanyakumari District
7. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.P.M.VISHNUVARTHANAN, Advocate
(SR-4888[F] dated 08/02/2022)