



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.03.2022

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C(MD)No.194 of 2022

and

Crl.M.P(MD)No.2894 of 2022

Emil Jebasingh ... Petitioner/Defacto Complainant
/Defacto Complainant
Vs.

1. The State represented by
The Inspector of Police,
Pudhukadai Police Station,
Kanyakumari District.
(Crime No. 72/2021)

... 1st Respondent/Complainant
/Complainant

2. Bensam

... 2nd Respondent/Proposed Accused
/ Accused No.2

Prayer: This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records and to set aside the impugned order taking cognizance of the Charge Sheet filed in C.C.No.182 of 2021 on the file of the Judicial Magistrate No.II, Kuzhithurai, dated 09.08.2021.

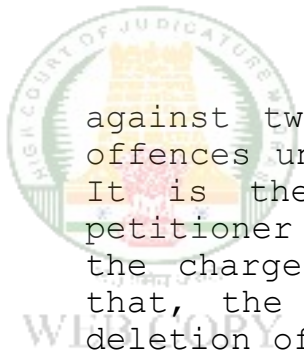
For Petitioner : Mr.C.Mayilvahana Rajendran

For Respondents : Mrs.M.Aasha,
Government Advocate (Crl.Side)

ORDER

This Criminal Revision Case has been filed to set aside the impugned order taking cognizance of the Charge Sheet filed in C.C.No.182 of 2021 on the file of the Judicial Magistrate No.II, Kuzhithurai, dated 09.08.2021.

2. The learned counsel for the petitioner submits that the petitioner challenged the impugned order taking cognizance on the final report filed by the first respondent in Crime No.72 of 2021, on the ground that initially, the first respondent registered a case as against three accused persons. After completion of investigation, the first respondent filed the final report only as



against two accused persons and left the second accused for the offences under Sections 294(b), 323, 324, 427, 448 and 506(ii) IPC. It is the only point raised by the learned counsel for the petitioner that while deleting the name of the second accused from the charge sheet, he did not refer the charge sheet notice. So that, the petitioner can file a protest petition as against the deletion of name of the second accused.

3. The learned Magistrate also without application of mind, since the name of one of the accused was deleted and no referred charge sheet was served on the petitioner, had taken cognizance as against the other accused persons in C.C.No.182 of 2021 and it is pending. Therefore, now, the petitioner was served copies including the deletion report of the second accused in Crime No.72 of 2021. Therefore, the petitioner is at liberty to file a protest petition as against the deletion of second accused in Crime No.72 of 2021 before the learned Magistrate No.2, Kulithurai, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the same, the learned Magistrate No.2, Kulithurai, is directed to issue notice to the respondents and complete the enquiry within a period of four weeks thereafter. After passing order on the protest petition, the learned jurisdictional Magistrate is directed to proceed with the trial in C.C.No.182 of 2021.

4. Accordingly, this Criminal Revision Case is disposed of. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

mga

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. Judicial Magistrate No.II,
Kuzhithurai.

2.The Inspector of Police,
Pudhukadai Police Station,
Kanniyakumari District.

<https://hcservices.kanniyakumari.nic.in/>



3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.C.MAYLVAHANA RAJENDRAN, Advocate (SR-9316[F]

ORDER MADE IN
CrI.R.C (MD) No.194 of 2022
01.03.2022

PKP/22.03.2022/3P/5C