



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 06.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR
Crl.R.C.(MD)No.431 of 2022

WEB COPY

Nainamohamed

... Petitioner/Defacto
Complainant

vs.

The Inspector of Police,
Keeramangalam Police Station,
Pudukkottai District.
(Crime No.145 of 2016)

... Respondent/ Respondent

PRAYER : This Criminal Revision has been filed under Section 397(1) r/w 401 of Criminal Procedure Code, to call for the records in order dated 27.08.2021 passed in R.No.74 of 2019 on the file of the learned District Munsif cum Judicial Magistrate, Alangudi and set aside the same by allowing this Criminal Revision Petition.

For Petitioner	: Mr.P.Ganapathi Subramanian
For Respondent	: Mr.K.Sanjai Gandhi, Government Advocate (Crl. Side).

O R D E R

This Criminal Revision Petition is directed against the order passed in R.No.74 of 2019 dated 27.08.2021 dismissing the protest petition for default.

2.The revision petitioner is the defacto complainant and on the basis of the complaint lodged by him, FIR came to be registered in Crime No.145 of 2016 against three persons for the offences alleged under Sections 294(b), 323, 420 and 506(1) IPC.

3.The respondent police, after completing the investigation, has filed a final report dated 27.09.2016 as 'mistake of fact'.

4.The learned Judicial Magistrate, after receiving the final report, has sent a notice to the revision petitioner/defacto complainant. On receiving the same, the revision petitioner has filed a protest petition before the concerned Court.

5.It is evident from the impugned order that since the revision petitioner was called absent and as there was no representation for him, the learned Judicial Magistrate, by observing that sufficient opportunities were already given, but there was no progress,



dismissed the protest petition for default.

6.At this juncture, the learned counsel for the revision petitioner would submit that since the protest petition was dismissed for default, the revision petitioner may be granted liberty to file a private complaint.

7.It is a settled position of law that even if the negative report filed by the police is accepted and the protest petition filed by the defacto complainant is dismissed, after enquiry, that will not prevent or debar or disentitle the complainant from filing a private complaint.

8.In view of the above, this Criminal Revision Petition is dismissed and the revision petitioner is at liberty to file a private complaint before the concerned Court.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

csm

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 District Munsif cum Judicial Magistrate, Alangudi.
- 2.The Inspector of Police,
Keeramangalam Police Station,
Pudukkottai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.R.C. (MD)No.431 of 2022
06.06.2022

IM(CO)
KB(20.06.2022) 2P 4C

<https://hcservices.ecourts.gov.in/hcservices/>