



Crl.O.P.No.21767 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2023

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.21767 of 2023

V.Sankar

... Petitioner

Vs.

1.Manickam

2.Mohan

3.State Represented by
Inspector of Police,
Sankari Police Station,
Salem District.
Crime No.93 of 2022.

... Respondents

Criminal Original Petition under Section 482 of the Criminal Procedure Code praying to set aside the orders passed in RCS No.65 of 2022 dated 14.09.2022 by the learned Judicial Magistrate No.I, Sankagiri, Salem District based on the Final Report filed by the third Respondent in Crime No.93 of 2022 in accordance with law.

For Petitioner : Mr.R.Rajesh Vivekananthan

For R3 : Mr.A.Damodaran
Additional Public Prosecutor



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ORDER

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This petition has been filed challenging the order passed by the Court below in RCS.No.65 of 2022 dated 14.09.2022.

2. Heard Mr.R.Rajesh Vivekananthan, learned counsel appearing on behalf of the petitioner and Mr.A.Damodaran, learned Additional Public Prosecutor appearing on behalf of the 3rd respondent.

3. The petitioner is the defacto complainant and based on the complaint given by the petitioner, an FIR came to be registered by the respondent police in Cr.No.93 of 2022. On completion of the investigation, a closure report was filed as "mistake of fact" and RCS notice in RCS.No.65 of 2022 was served on the petitioner.

4. The petitioner had appeared before the Court below on 03.09.2022 and had informed the Court that he wants to file a protest petition. Accordingly, the case was adjourned to 14.09.2022. Since no protest petition was filed on that day, the Court below proceeded to accept



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the RCS notice and closed the case by giving liberty to the petitioner to file a private complaint and agitate his grievance. Aggrieved by the same, the present petition has been filed before this Court.

5. The learned counsel for the petitioner submitted that the petitioner wanted one adjournment only for the sake of getting the certified copy of the final report. Since the final report was not available with the petitioner, he was not be able to file the protest petition on 14.09.2022. Now, the final report has been received by the petitioner and therefore, the learned counsel for the petitioner sought for one opportunity to the petitioner to prosecute the protest petition.

6. Taking into consideration the facts and circumstances of the case and in order to afford an opportunity to the petitioner, the order passed by the Court below dated 14.09.2022 in RCS No.65 of 2022 is hereby set aside. The petitioner is directed to file the protest petition before the Court below on 04.10.2023. The Court below is directed to entertain the same and proceed further in accordance with law.



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WEB COPY 7. This Criminal Original Petition is allowed with the above directions.

25.09.2023

Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
rjr/rka

Note : Issue order copy on 27.09.2023

To

1. The Judicial Magistrate No.I, Sankagiri, Salem District.
2. The Public Prosecutor, High Court, Madras.



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N.ANAND VENKATESH,J

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