



Crl.O.P.No.17193 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.17193 of 2023

and

Crl.M.P.No.11072 of 2023

S.Siva

... Petitioner

Vs.

The Inspector of Police,
CCB Police Station V Division
Commissioner of Police Wing,
Vepary, Chennai.

.. Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records of relating to the close petition registration No.4060 of 2023 dated 02.06.2023 in C.C.No.1275 of 2017 pending on the file of the Judicial Magistrate Court at Alandur Chennai 16 and allow this direction petition and set aside the same returned docket order according to the memo dated 07.07.2023 in C.C.No.1275 of 2017.



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For Petitioner : Mr.S.Siva Party-in-person
For Respondent : Mr.A.Damodaran
Additional Public Prosecutor

ORDER

This petition has been filed challenging the docket order passed by the Court below returning back the memo filed by the petitioner wherein the petitioner has sought for closing CC No.1275 of 2017 pending before the learned Judicial Magistrate, Alandur.

2. Heard the petitioner who appeared in person and the learned Additional Public Prosecutor.

3. It is brought to the notice of this Court that the case is now at the stage of examination of the investigation officer. According to the petitioner, the very filing of the final report in CC No.1275 of 2017 is not valid and on going through the same, it is clear that the very registration of the FIR against the peitioner is unsustainable and consequently, the filing of final report which was taken on file in CC No.1275 of 2017 is unsustainable.



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4. The petitioner filed a memo to that effect before the Court below seeking for closing CC No.1275 of 2017. The Court below has returned the memo with an endorsement that the petitioner must show under what provision of law such a memo was filed. The petitioner is aggrieved by the return endorsement made by the Court below.

5. In the considered view of this Court, there is no scope to close the Calendar case which is now at the fag end of the Trial. The petitioner has been directed to produce documents on his side in order to defend himself. Whenever, the petitioner wants to presents those documents, it will be considered by the Court and ultimately, a final order will be passed in CC No.1275 of 2017. There is no provision in Cr.PC where the Court below can straightaway close CC No.1275 of 2017. The Court below has to necessarily take into consideration the materials placed before it and also the defence taken by the petitioner and pass a final judgement. Therefore, this Court does not find any illegality in returning back the memo filed by the petitioner before the Court below.



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6. In the light of the above discussion, the Court below is directed to proceed further with the CC No.1275 of 2017 and permit the petitioner to file the documents, which he is relying upon to substantiate his defence. Ultimately, the case shall be disposed of on its own merits and in accordance with law within a period of two months from the date of receipt of a copy of this order.

7. This Criminal Original petition is disposed of with the above directions. Consequently, the connected miscellaneous petition is closed.

02.08.2023

Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
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To

1. The Inspector of Police,
CCB Police Station V Division
Commissioner of Police Wing,
Vepary, Chennai.
2. The Public Prosecutor
High Court of Madras,
Madras.



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N.ANAND VENKATESH, J

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