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Criminal Original Petition No.16783 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2023

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Criminal Original Petition No.16783 of 2023

Pasupathi G K
S/o.(Late) G.Kumar

...Petitioner

Vs

1.State represented by
The Superintendent of Police,
Salem District.

2.State represented by
The Inspector of Police,
Attaiyampatti Police Station,
Salem District - 637 501.

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, praying to call for the final report in C.C.No.112 of 2023 on the file of IV Judicial Magistrate Court, Salem and set aside the final report submitted by the second respondent and it is further prayed that this Court may be pleased to direct the Superintendent of Police, Salem District, to re-investigate the complaint registered in Crime No.343 of 2015 on the file of Attaiyampatti Police Station.

For Petitioner : Mr.N.Baskaran
for Mr.V.Sridar

For Respondents : Mr.A.Damodaran
Additional Public Prosecutor



ORDER

This Criminal Original Petition has been filed to set aside the final report filed by the second respondent and for a further direction to the Superintendent of Police to reinvestigate the complaint registered in Crime No.343 of 2015 on the file of second respondent.

2. Heard Mr.N.Baskaran, learned counsel for petitioner and Mr.A.Damodaran, learned Additional Public Prosecutor appearing for respondents.

3. The grievance of the petitioner is that there has been a slipshod investigation in this case and that this case requires a re-investigation or at least a further investigation.

4. In the considered view of this Court, if the respondent police has not conducted a proper investigation, the trial Court itself has the power to order for further investigation. The Apex Court has now settled the law to the effect that further investigation can be ordered either at the instance of the police or a petition filed by the *de facto* complainant. Useful reference



can be made to the judgment of the Apex Court in ***Chandra Babu @ Moses v. State*** [2015 (3) MLJ CrL. 597]. That apart, even after the final report is taken cognizance, the trial Court has the power to order for further investigation and the law on this issue has also been settled by the Apex Court in ***Vinubhai Haribhai Malaviya & others v. The State of Gujarat and another*** [2019 (3) MWN CrL. 349].

5. In view of the above, this Court finds that the trial Court itself has the power to order for further investigation if it is found that the investigation has not been properly conducted in the case. The trial Court also has the power to direct the Superintendent of Police to monitor the investigation if the investigation is not properly conducted by the respondent police. It is left open to the petitioner to move an application in this regard before the trial Court and the trial Court shall take into consideration the materials available and also the judgments cited supra and take a decision in accordance with law. The decision shall be taken by the trial Court before framing charges since such a power ceases to exist once the trial commences. The trial commences in a warrant case at the stage of framing of charges. This should be kept in mind by the trial Court.



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N.ANAND VENKATESH, J
gm

This Criminal Original Petition is disposed of with the above direction.

27.07.2023

Note to office: Issue order copy by 31.07.2023

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

To

1. The IV Judicial Magistrate Court,
Salem.
2. The Superintendent of Police,
Salem District.
3. The Inspector of Police,
Attaiyampatti Police Station,
Salem District - 637 501.
4. The Public Prosecutor,
High Court, Madras.

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