



Crl.OP.No.32639 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2023

CORAM

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.32639 of 2022 and
Crl.M.P.No.7 of 2023

K.Moorthy Jayamoorthy
@ K.N.K.Senjeraja

.. Petitioner

VS

The Deputy Superintendent of Police
Gingee Sub Division
Gingee.

.. Respondent

PRAYER: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to set aside the order dated 12.02.2021 passed in Crl.M.P.No.1035 of 2020 in S.C.No.1 of 2015, on the file of the Sessions Judge, Special Court for Exclusive Trial of Cases Registered under the SC/ST (POA) Act, Villupuram.

For Petitioner : Mr.K.Moorthy Jayamoorthy@K.N.K.Senjeraja
(Party-in-person)

For Respondent : Mr.S.Santhosh
Government Advocate (Crl side)

ORDER

This Criminal Original Petition has been filed to set aside the order dated



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12.02.2021 passed in Crl.M.P.No.1035 of 2020 in S.C.No.1 of 2015, on the file of the Sessions Judge, Special Court for Exclusive Trial of Cases Registered under the SC/ST (POA) Act, Villupuram.

2.The petitioner appeared in person and submitted that he filed a petition under Section 311 CR.P.C. for summoning the Secretary to the Government, Home Department as a witness in this case. As per Section 9 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Rule 7 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the investigating officer should not be below the rank of Deputy Superintendent of Police, the investigating officer shall be appointed by the State/Director General of Police/Superintendent of Police after taking into account his past experience, sense of ability and justice to perceive the implications of the case and investigate it along with right lines within the shortest possible time.

3.Petitioner further submitted that there is no proceedings was issued for appointing the Deputy Superintendent of Police who investigated this case. He



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sought information from the Additional Superintendent of Police, Villupuram District, with regard to the proceedings for appointing Deputy Superintendent of Police as investigating officer in this case. He got a reply stating that the proceedings is not available in the case records. Thus, he submitted that it is an apparent that without issuing proper proceedings for appointing Deputy Superintendent of Police to investigate this case, investigation was conducted and final report has been filed. The Secretary to the Government, Home Department is one of the authorities to review the investigation done by the investigating officer. That is the reason he filed a petition for summoning the Secretary to the Government, Home Department in this case.

4.The learned Government Advocate (Criminal side) submitted that the trial Court on recording the submission on both sides observed that “whether any proceedings was issued by the District Superintendent of Police appointing the investigating officer or whether any oral wireless message was passed appointing the investigating officer is not known and so far no document had been filed before the Court in this regard”. It is further observed that the investigation officer can be examined in this regard. Recording these reasons,



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the trial Judge considered that summoning of Secretary to the Government, Home Department is not necessary and dismissed the petition. Therefore, he submitted that it is not necessary to summon the Secretary to the Government, Home Department and the petition filed by the petitioner under 311 Cr.P.C. was dismissed.

5.This Court on going through the records, hearing submission of learned counsel appearing for the parties finds that, as of now the proceedings, if any, issued by the District Superintendent of Police for appointing the investigating officer or that order was passed orally through wireless message is not produced before the Court. That is rightly observed by the learned trial Judge. These aspects can be clarified with the investigating officer. It is not necessary to summon the Secretary to the Government, Home Department for this purpose. The petition filed under Section 311 Cr.P.C is obviously filed only for the purpose of protracting proceedings. Therefore, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Speaking / Non Speaking order
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To

1. The Deputy Superintendent of Police
Gingee Sub Division
Gingee.
2. The Public Prosecutor
High Court, Madras.



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G.CHANDRASEKHARAN,J.

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