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Crl.O.P.Nos.25768 & 25920 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2023

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.Nos.25768 & 25920 of 2023

Shanmugam

... Petitioner in both Crl.O.Ps

Vs.

State Rep. By
Inspector of Police,
Kodumudi Police Station,
Kodumudi,
Erode District.

... Respondent in Crl.O.P.No.25768 of 2023

1.Sub-Inspector of Police,
Kodumudi Police Station,
Kodumudi,
Erode District.

2. Maheswari

3.Sounthar @ Sountharajan

4.Ramani

5.Ravichandran

... Respondents in Crl.O.P.No.25920 of 2023

Prayer in Crl.O.P.No.25768 of 2023: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to direct the respondent herein to complete the investigation in Crime No.36 of 2020 on the file of the respondent police herein and to file the final report before the learned District Munsif Cum Judicial Magistrate, Kodumudi.

Prayer in Crl.O.P.No.25920 of 2023 : Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to set aside the



CrI.O.P.Nos.25768 & 25920 of 2023

docket order passed in C.M.P.No.1264 of 2021 by order dated 20.04.2023 passed by the learned District Munsif Cum Judicial Magistrate, Kodumudi.

In both CrI.Op's

For Petitioner : Mr.V.S.Kesavan

For R1 : Mr. S.Udaya Kumar
Government Advocate (CrI. Side)

COMMON ORDER

CrI.O.P.No.25768 of 2023 is filed to direct the respondent police to complete the investigation in Crime No.36 of 2020 and file final report before the learned District Munsif Cum Judicial Magistrate, Kodumudi and pass appropriate order.

CrI.O.P.No.25920 of 2023 is filed to set aside the docket order passed in C.M.P.No.1264 of 2021 passed by the District Munsif Cum Judicial Magistrate, Kodumudi for the reason that, having come to know that, the case in Crime No.36 of 2020 on completion of investigation closed and R.C.S notice came to be served to him and thereafter, he filed protest petition in C.M.P.No.1264 of 2021, however, the trial Court had returned complaint stating that, perusal of records, final report in Crime No. 36 of 2020 not been filed before the Court as stated in the petition. The said docket order is impugned in CrI.O.P.No.25920 of 2023.



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2. The perusal of records indicates that, case in Crime No.36 of 2020 was registered by the respondent police on 25.02.2020 based on the direction given by the learned Magistrate under Section 156(3) of Cr.P.C. The first respondent police on completion of investigation has closed the complaint and RCS notice been served to the petitioner herein on 01.10.2020 and thereafter, on receipt of RCS notice, petitioner herein has filed protest petition in C.M.P.No.1264 of 2021. In the protest petition, learned Magistrate after verifying the records, had dismissed the petition as premature on the premise that final report was not filed by the respondent police. However, from the RCS Notice served to the petitioner by the first respondent and the seal of the learned District Munsif Cum Judicial Magistrate, Kodumudi, this Court finds that, RCS Notice No.19 of 2023 dated 01.10.2020 received under the F.R.No.110 of 2020 on 08.08.2022. The date and seal of the learned District Munsif Cum Judicial Magistrate, Kodumudi clearly shows that, RCS report was submitted to the Court on 08.08.2022. Therefore, factually what is stated in the impugned docket order is not correct. Hence, while dismissing the Crl.O.P.No.25786 of 2023 seeking direction to the final report, since RCS Notice already been filed,



CrI.O.P.Nos.25768 & 25920 of 2023

allow the CrI.O.P.No.25920 of 2023 by setting aside the docket order passed by learned Judicial Magistrate on 24.09.2023 in C.M.P.No.1264 of 2021 stating that, final report not filed. Since final report already been filed in the registry of the District Munsif Cum Judicial Magistrate, Kodumudi on 08.08.2022, the learned Judicial Magistrate shall order trace the final report and consider the C.M.P.No.1264 of 2021 on merits. If in case, the said original final report is not available in the records of the Courts, then the record may be reconstructed.

3. Accordingly, the CrI.O.P.No.2590 of 2023 is allowed and the CrI.O.P.No.25768 of 2023 is dismissed.

10.11.2023

Index : Yes/No

Neutral Citation : Yes/No

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CrI.O.P.Nos.25768 & 25920 of 2023

To
WEB COPY

1. Inspector of Police,
Kodumudi Police Station,
Kodumudi,
Erode District.
2. The Public Prosecutor,
Madras High Court.



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Crl.O.P.Nos.25768 & 25920 of 2023

Dr.G.JAYACHANDRAN,J.

Sma

Crl.O.P.Nos.25768 & 25920 of 2023

10.11.2023