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**CrI.O.P (MD)No.11664 of 2022**

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

**RESERVED ON : 16.11.2022**

**DELIVERED ON : 11.08.2023**

CORAM :

**THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP**

**CrI.O.P(MD).No.11664 of 2022**

Mythili : Petitioner

Vs

1.State rep. by  
The Superintendent of Police,  
Trichy District,  
Trichy.

2.State rep. by  
The Inspector of Police,  
Somarasampettai Police Station,  
Trichy District.

3.Kathirvel

4.Ravi Murugaiah : Respondent

**Prayer:** Criminal Original Petition filed under Section 482 of Cr.P.C, praying, to call for the records in PRC No.42 of 2022 before the learned Judicial Magistrate (Additional Mahila Court), Trichy and set aside the final Report in Cr.No.769 of 2021 and direct the Respondents No.1 and 2 to conduct the further investigation by recording 161(3) of Cr.P.C. statement of the Petitioner and other witnesses and also to array all the named Accused in the FIR in Cr.No.769 of 2021 pending on the file of the second Respondent Police as Accused and file charge sheet afresh.

For Petitioner : Mr.N.R.Murugesan



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For Respondents 1&2 : Mr.R.Sivakumar  
Government Advocate (Crl. Side)

### **ORDER**

This Criminal Original Petition had been filed seeking to quash the final Report in Cr.No.769 of 2021 and direct the Respondents No.1 and 2 to conduct the further investigation by recording 161(3) of Cr.P.C. statement of the Petitioner and other witnesses and also to array all the named Accused in the FIR in Cr.No.769 of 2021 pending on the file of the second Respondent Police as Accused and file charge sheet afresh.

2. The learned Counsel for the Petitioner invited the attention of this Court to the facts narrated in the First Information Report. He would further submit that the name of the person mentioned in the First Information Report was not at all arrested. Also, it is the further submission of the learned Counsel for the Petitioner that the investigation is not proceeded fairly. It is the further submission of the learned Counsel for the Petitioner that when the body of the deceased was in the hospital, the Petitioner had protested outside the general hospital seeking arrest of the Accused mentioned in the First Information Report. At that time, the Inspector General of Police, Central Zone Trichy had given assurance that the



Accused will be arrested. On such assurance, the body of the deceased was accepted by the relatives. It is the further submission of the learned Counsel for the Petitioner that the Investigation Officer by name Udhayakumar of Somarasampettai Police Station, Trichy had not conducted the investigation fairly. He had not conducted the inquest properly. He had not examined the *De facto Complainant*, her mother-in-law who were the direct witnesses to the occurrence and also the person who came to rescue at the time of attack by the Accused, their names were mentioned by her in the complaint. The Accused were not at all arrested. The investigation report is not filed within stipulated period of 90 days. Even though the Accused were available in the place of occurrence and roaming freely within the limits of the Somarasampettai Police Station. Only to help the Accused to obtain anticipatory bail the Inspector of Police, Udhayakumar had not completed the investigation and laid final report within stipulated time period of 90 days enabling the Accused to move anticipatory bail. At that time, the Petitioner herein filed intervening petition seeking dismissal of the anticipatory bail. Further when the final report was laid before the Court of the learned Judicial Magistrate, Additional Mahila Court, the Petitioner herein had filed a miscellaneous petition seeking arrest of the Accused as well as recording statement of the witnesses in Crl.M.P.No.8106 of 2022



which was dismissed by the learned Magistrate seeking further investigation. Therefore, this petition is filed seeking to set aside the order passed by the learned Judicial Magistrate accepting the final report and to order further investigation.

3. The learned Government Advocate (Crl. Side) vehemently objected to the line of arguments of the learned Counsel for the Petitioner stating that the investigation had been completed and final report had also been laid before the Court of the learned Additional Judge, Mahila Court, Tiruchirappalli. As per the statement of witnesses, none of the witnesses had spoken about the involvement of A-3 and A-4 in the alleged occurrence. Therefore, on the basis of the statement of the witnesses, the names of the A-3 and A-4 were dropped from the final report filed by the Investigation Officer. Before the deletion of the names of A-3 and A-4, A-4 had obtained anticipatory bail by filing Crl.O.P.(MD)No.20991 of 2022 from this Court. The Investigation Officer had issued summons to the Accused under Section 41 of Cr.P.C. From the enquiry conducted by the Investigation Officer, it is found out that the A-3 and A-4 were not involved and A-1 and A-2 only were involved. A-1 and A-2 were arrested on the next day of the incident. A-1 and A-2 had not stated anything about A-3 and A-4. After filing of the



report, opportunity was given to the Complainant to file protest petition. The Complainant had not filed any protest petition. Now, the case had been committed to the Court of the Sessions/Fast Track Court/Additional Mahila Court, Tiruchirappalli. Charges were framed against A-1 and A-2 and trial was fixed on 08.12.2022. The learned Government Advocate (Crl. Side) submitted that even when the case is before the learned Sessions Judge, the learned Sessions Judge, himself/herself can order further investigation, if he/she comes to a conclusion that the Investigation was not proper. Therefore, he seeks to dismiss this Petition as having no merits.

4.Point for consideration:

***Whether this Court has to order further investigation?***

5.On consideration of the rival submissions, the fact that the Petitioner/Wife of the deceased, who is the direct witness to the occurrence and had stated about the fact and the other witnesses who were present in the spot had not been examined by the Investigation Officer. Also, it is the contention of the learned Counsel for the Petitioner that the Petitioner/Wife of the deceased had alleged that the Inspector of Police – Udhayakumar was helping the Accused and he had not arrested the Accused immediately after the occurrence which caused enragement to the relatives who refused to



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receive the body of the deceased – Sivakumar. Only on the assurance by the Inspector General of Police, Central Zone, Tiruchirappalli that the Accused will be arrested and fair investigation will be conducted, the relatives had received the body of the deceased.

6.In the light of the above, the submission of the learned Government Advocate (Crl. Side) is rejected. The Inspector General of Police, Central Zone, Tiruchirappalli, is directed to nominate an Officer not below the rank of Additional Superintendent/Deputy Superintendent of Police in his own assessment to be a person of impartial integrity in investigating cases and the case in crime No.769 of 2021 has to be withdrawn from the file of the Inspector of Police, Somarasampettai Police Station and to examine the widow of the deceased Sivakumar as a witness and also the other witnesses mentioned by the widow of the deceased/Sivakumar who claims to be direct witnesses to the occurrence of murder.

7.As per the submission of the learned Government Advocate (Crl. Side), the Investigation had been completed and now pending as PRC before the Court of the learned Additional Mahila Court, Tiruchirappalli. As per the case status uploaded on the website of the Court concerned, PRC



had been committed to the Court of Sessions, Tiruchirappalli. The learned Principal Sessions Judge, Tiruchirappalli is directed not to proceed further with the Sessions Case regarding the final report having PRC No.42 of 2022. The Investigation shall be directly supervised by the Inspector General of Police, Central Zone, Tiruchirappalli and the supplementary charge sheet should be filed to the Sessions Court directly since the PRC had already been committed to the Court of Sessions, Tiruchirappalli. If the Deputy Superintendent of Police who is directed to investigate the case, files the report that no further materials is available, the learned Sessions Judge shall issue notice to the *De facto Complainant*/widow of the deceased to hear their objection and shall pass appropriate orders.

8. The Director General of Police, Tamil Nadu, shall order departmental enquiry against the Inspector of Police – Udhayakumar who had proceeded with the investigation in Crime No.769 of 2021 on the file of Somarasampettai Police Station. If there is any lapse on the part of the Investigation Officer, the Director General of Police, Tamil Nadu, shall deal with him appropriately including removal from service. As per the Complainant/victim of crime, her husband was murdered by the Accused and the Inspector of Police, Somarasampettai Police Station helped the



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Accused by not arresting the Accused and also not examining the witnesses who have direct knowledge of the crime.

With the above direction, **this Criminal Original Petition is disposed of.**

**11.08.2023**

Index :Yes/No  
Internet : Yes/No  
srm

To

- 1.The learned Judicial Magistrate (Additional Mahila Court),  
Trichy.
- 2.The learned Principal Sessions Judge,  
Tiruchirappalli.
3. The Director General of Police,  
Tamil Nadu.
4. The Inspector General of Police,  
Central Zone, Tiruchirappalli.
- 5.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



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SATHI KUMAR SUKUMARA KURUP, J.

srm

Order made in  
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**11.08.2023**