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Crl.O.P.(MD)No.15957 of 2020



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 05.06.2023

Delivered on : **08.06.2023**

CORAM:

THE HONOURABLE MRS.JUSTICE **R.THARANI**

Crl.O.P.(MD) No.15957 of 2020

Gomathy @ Gomathy Parameswaran ... Petitioner /Petitioner /A1

Vs.

State rep. by

The Inspector of Police,

District Crime Branch Police Station,

Nagercoil, Kanyakumari District.

(In Crime No.17 of 2005) ... Respondent / Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to set aside the order made in Cr.M.P.No.1696 of 2020, dated 11.11.2020, in C.C.No.167 of 2014, on the file of the Judicial Magistrate No.1, Nagercoil, taking cognizance of the case on its filed.

For Petitioner : Mr.G.Anto Prince

For Respondent : Mrs.M.Aasha
Government Advocate(crl.side)



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ORDER

This petition is filed to quash the Cr.M.P.No.1696 of 2020, dated 11.11.2020, in C.C.No.167 of 2014, on the file of the Judicial Magistrate No.1, Nagercoil,

2. The petitioner filed a petition under Section 91 of Cr.P.C in Cr.M.P.No.1696 of 2020, dated 11.11.2020, in C.C.No.167 of 2014, on the file of the Judicial Magistrate No.1, Nagercoil.

3. A Brief Substance of the petition in Cr.M.P.No.1696 of 2020, in C.C.No.167 of 2014, is as follows:-

In Crime No.17 of 2005, already investigation was over and a final report was filed by the previous investigation agency and statements recorded under Section 161 of Cr.P.C and those documents are necessary for disproving the case against the petitioner and prayed those documents to be produced before the Court.

4. Brief substance of the counter filed by the respondent in Cr.M.P.No.1696 of 2020, in C.C.No.167 of 2014, is as follows:-



The final report and the 161 Statements filed by the District Crime Branch, in Crime No.17 of 2005, were available in the Court and not with the respondent. Only to drag on the case, the petitioner has come forward with this petition.

5. The trial Court, after hearing both sides, has dismissed the petition. Against that order, the petitioner filed this Petition to set aside the order passed by the trial Court.

6. On the side of the petitioner, it is stated that the husband of the petitioner met with an accident and he died on 30.06.1996 and a case in Crime No.956 of 1999 was registered by the police and the case was taken on file as S.T.C.No.315 of 1999, before the Judicial Magistrate, Padmanabhapuram. Later, the petitioner has filed a claim petition before the Sub Court, Padmanabhapuram. The Tribunal has awarded compensation to the petitioner and the family members, in M.C.O.P.No.41 of 1999, on 04.10.2010. Against the award, the Insurance Company preferred an appeal in C.M.A.(MD)No.315 of 2006, before this Court and that appeal was also dismissed by this Court. In the meantime, the Divisional Officer lodged a complaint against the driver of the Ambassador Car bearing Registration



No. TMZ- 1812 before the District Crime Branch, Nagercoil, stating that the Ambassador Car was falsely introduced in the accident case and a case in Crime No.17 of 2005 was registered. After detailed investigation by the Inspector of Police, District Crime Branch, Nagercoil, and after recording the statements of the witnesses, the case was closed as “mistake of fact” and prayed to produce those documents before the Judicial Magistrate No.1, Nagercoil.

7. On the side of the prosecution, it is stated that the earlier investigation was done by the previous investigation agency and the final report was filed by the previous investigation agency before the trial Court. The original final report and the statements recorded by the previous investigation agency should be available with the Judicial Magistrate No.1, Nagercoil and not with the respondent. The petitioner has come forward with a prayer petition to produce certain documents before the Judicial Magistrate No.1, Nagercoil, which are already available in the Court itself. All the witnesses were examined and the case is pending for arguments. Only to drag on the case, the petitioner has come forward with this petition and prayed the petition to be dismissed.



8. It is seen that originally in Crime No.17 of 2005 was registered under Section 420 of I.P.C and the investigation was done by the District Crime Branch, Nagercoil and the statements of witnesses were recorded and final report was also filed before the Judicial Magistrate No.II, Nagercoil. Later, the case was transferred to the C.B.C.I.D, Tirunelveli and the original final report filed by the District Crime Branch Police and the statements recorded by the District Crime Branch Police were already filed before the Judicial Magistrate No.II, Nagercoil. The claim of the petitioner is to produce those documents before the Court. It is seen that the case is at the stage of arguments. Only to drag on the case, the petitioner has filed this Petition.

9. Since all the documents were already submitted before the Court by the District Crime Branch of Police, it is not possible for the respondent to produce those documents.

10. In the above circumstances, this Petition is dismissed.

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
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R.THARANI. J.

Ls

To

- 1.The Judicial Magistrate No.1,
Nagercoil.
- 2.The Inspector of Police,
District Crime Branch Police Station,
Nagercoil, Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Pre-delivery order made in
Crl.O.P.(MD)No.15957 of 2020

08.06.2023