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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 24/02/2023

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Cr1.RC(MD)No.1056 of 2022

Balathandayuthapani : Petitioner/
De-facto Complainant

Vs.

- 1.State through
The Deputy Superintendent of Police,
Illuppur Sub Division,
Pudukottai District.
- 2.The Inspector of Police,
Annavaasal Police Station,
Pudukottai District.
(In Crime No.135 of 2019) : R1 and R2/Complainants
- 3.Ganesan
- 4.Meenatchi
- 5.Valiyan : R3 to R5/A1 to A3

Prayer: Criminal Revision is filed under Section 397 r/w 401 of the Criminal Procedure Code, to call for the entire records connected with the impugned order in RCS No. 11/2020, dated 10/08/2022 on the file of the Special Court for Trial of SC/ST cases, Pudukottai and set aside the same, consequently direct the respondent No.1 or any other competent officer to re-investigate the case relating to the case in crime No.135 of 2019 on the file of the respondent No.2 in accordance with law within the time stipulated by this court and pass such further or other orders.



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For Petitioner : Mr.R.Alagumani
For R1 and R2 : Mr.M.Sakthikumar
Government Advocate
(Criminal side)

O R D E R

This criminal revision has been filed against the order of closure, dated 10/08/2022 made in RCS No.11 of 2020.

2.The facts in brief:-

The petitioner as de-facto complainant filed a complaint against the private respondents, which was registered in Crime No.135 of 2019 for the offences punishable under sections 294(b), 323, 506(2) IPC r/w section 3(i)(r), 3(i)(s) of SC/ST (POA) Act, 2015. In the complaint, it has been stated that he belongs to a political party. There was dispute with regard to the property, which is lying adjacent to his house between himself and the private respondents namely Ganesan, Meenatchi and Valiyan, etc. Over the above said issue, a suit in O.S No.18 of 2009 was also pending before the District Munsif Court, Keeranur. That suit was dismissed. Now the appeal is pending before the Sub Court, Keeranur in A.S No.9 of 2021. In the meantime, on 29/07/2019 at about 11.00 am, the accused persons tried to instal a stone



pillar in the property. That was resisted and objected. At that time, they insulted him by calling his caste name, and his wife, also criminally intimidated, insulted. A2 tried to assault him with aruval. But he escaped from that attack, that caused injury in the head portion. He was admitted in the Annavasal Government Hospital and later shifted to Pudukottai Medical College Hospital. Based upon the above said occurrence, statement was recorded during his treatment period and a case in Crime No.135 of 2019 was registered against the accused persons.

3.After completing the formalities of investigation, final report was filed by the respondent police stating that no such occurrence said to have taken place and it is a clear case of misuse of law and mistake of fact, RC notice was served upon the complainant in RC No.5 of 2018, dated 01/10/2019. Over which, he filed a protest petition before the trial court and that was rejected by the Special Court. The report submitted by the police was accepted and that was closed as 'Mistake of Fact'.

4.In the protest petition, he sought two prayers. One for rejection of the final report and another for further investigation.



5. But reading of the order does not indicate, whether the above said objection has been decided on merits. It has been simply stated that the de-facto complainant present, filed objection, both were heard and after perusing the documents, the final report that was submitted by the prosecution was accepted. It does not reflect the application of mind by the Special Court to the facts and circumstances of the case as well as the objection that was raised by the de-facto complainant.

6. It appears that it is a case and counter. In respect of the very same occurrence, FIR was registered in Crime No.134 of 2019 for the offences punishable under sections 294(b) and 498, 506(ii) IPC against the de-facto complainant and his family members.

7. On going through the file, it is seen that on the basis of the final report, that was filed by the respondent police, the Special Court has passed the cryptic order not even making any reference to the connected counter case during the course of the investigation.

8. Even though, petition is filed seeking re-investigation, the matter is remitted back to the Special Court for considering the protest petition that was filed by the petitioner on its own merits, by taking into account



the materials collected during the course of investigation,
pass fresh orders without being influenced any of the
observation made by this court in this order.

9. With the above said directions, this criminal
revision stands **allowed** to the extent noted above.

24/02/2023

Index: Yes/No
Internet: Yes/No
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To,

1. The Deputy Superintendent of Police,
Illuppur Sub Division,
Pudukottai District.

2. The Inspector of Police,
Annavasal Police Station,
Pudukottai District

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Maudrai.



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G.ILANGOVAN, J

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