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CrI.O.P.(MD)No.17461 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 14/12/2023

CORAM

The Hon'ble Mr.Justice **G.ILANGOVAN**

CrI.OP (MD)No.17461 of 2023

P.Rajamani : Petitioner

Vs.

1.State through
The Superintendent of Police,
Madurai District,
Madurai.

2.The Inspector of Police,
T.Kallupatti Police Station,
Madurai District.
(In Crime No.328 of 2014) : Respondents

PRAYER:-Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records with regard to the final report in PRC No.27 of 2017 on the file of the Judicial Magistrate, Peraiyur, Madurai District and set aside the same and consequently, direct the 2nd respondent to conduct further investigation of the case in Crime No.328 of 2014 pending on the file of the 2nd respondent within the stipulated period that may be prescribed by this court and file final report and pass such further or other orders.

For Petitioner : Mr.R.Murugan

For Respondents : Mr.M.Vaikkam Karunanithi
Government Advocate
(Criminal side)



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O R D E R

This criminal original petition has been filed seeking quashment of the final report in PRC No.27 of 2017 on the file of the Judicial Magistrate, Peraiyur, Madurai District and consequently direct the 2nd respondent to conduct further investigation of the case in Crime No.328 of 2014 pending on the file of the 2nd respondent

2.The facts in brief:-

The petitioner/de-facto complainant lodged a complaint stating that on 19/10/2011 at about 02.00 am, when he was sleeping in his house with his family members, 10 masked persons broke open the back door, entered, committed dacoity of various house-hold articles, jewels, cash amount etc., worth about Rs.4,11,500/-. On the basis of the complaint given by the de-facto complainant, a case in Crime No.328 of 2014 was registered for the offence under section 379 IPC.

3.The total stolen jewellery is 126 sovereigns. But after verification of the correctness of jewellery, it was found approximately 79 sovereigns were stolen. Without properly conducting investigation, the matter was



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dragged on. So the petitioner filed Crl.OP (MD)No.24534 of 2015 to change the investigation to CBCID. At that time, it was informed the Court that investigation has been completed, final report was filed before the Judicial Magistrate, Peraiyur, on 14/09/2015 and taken cognizance in PRC No.27 of 2017.

4.Heard both sides.

5.An unfortunate petitioner suffered first at the hands of dacoits. Next at the hands of the Investigating Officer. The reason for me for making this observation is that without completely recovering the jewellery involved, final report came to be filed. The reason assigned by the present Investigating Officer is that before her taking the charge, investigation was completed. After completing the formalities and verifying the documents, she filed final report. But even at the time of making this statement, this court made an enquiry with the present Investigating Officer as to whether she has verified the recovered jewellery. She answered in the negative. So naturally, it appears that investigation was not properly concluded.



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6. Reading of the confession statement of the accused namely Saravanan(A1) and Udhayakumar(A2) does indicate that only a portion of the jewellery was recovered. What is most unfortunate is that the accused namely Saravanan, Udhayakumar, Maveeran Palpandi and Vadivel were taken to the police station. On arrest and remand, proper application was filed by the Investigating Officer before the trial court for custody. In spite of that, it appears that no proper enquiry was made over the jewellery.

7. Further reading of the statement of Udhayakumar indicates that the co-accused namely Giri @ Karthick and Manikandan were arrested by the Karaikudi police officials. They were also taken to police custody. On their disclosure statement, 60 sovereigns of jewellery was recovered and they remanded the property before the concerned court stating that those properties were pertaining to some other case. When this particular disclosure statement is given by the accused Udhayakumar, the present Investigating Officer ought to have verified the same with the Karaikudi Police. But without verifying the same, final report has been filed.



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8. So in all fairness, I am of considered that this is the fittest case to exercise the power under section 482 Cr.P.C., to direct further investigation to be undertaken by the Deputy Superintendent of Police, Peraiyur, Madurai District. The Investigating Officer namely the Deputy Superintendent of Police, Peraiyur, Madurai District is directed to take up the further investigation with due intimation to the concerned Committal Court and under the direct supervision of the first respondent herein namely the Superintendent of Police, Madurai District. Considering the lapse already committed by the then Investigating Officer, let the further investigation be completed within a period of three months from the date of receipt of a copy of this order and the supplementary final report be filed before the concerned court. Till then, all the proceedings in respect of PRC No.27 of 2017 on the file of the Judicial Magistrate, Peraiyur, Madurai District, be kept in abeyance.

9. Even though in the prayer portion, relief has been sought for by the petitioner to set aside the final report, that is not permissible. When supplementary final report can be filed, there is no question of setting aside the final report.



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10. Accordingly, this criminal original petition is

allowed as indicated above.

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

- 1.The Judicial Magistrate,
Peraiyur,
Madurai District.
- 2.The Superintendent of Police,
Madurai District,
Madurai.
- 3.The Deputy Superintendent of Police,
Peraiyur, Madurai District.
- 4.The Inspector of Police,
T.Kallupatti Police Station,
Madurai District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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