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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 06/01/2023

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

Cr1.RC(MD)No.1264 of 2022

and

Cr1.MP(MD)No.15872 of 2022

V.Stephen : Petitioner/Petitioner/
De-facto complainant

Vs.

The Inspector of Police,
Land Gabbing Cell,
Nagercoil,
Kanyakumari District.
(Crime No.23 of 2019) : Respondent/Respondent/
Complainant

Prayer:-This Criminal Revision has been filed under section 397 and 401(1) of the Criminal Procedure Code, to call for the records and set side the order passed in Cr1.MP No.10928 of 2022 in CC No.67 of 2021, dated 24/11/2022 on the file of the Special Court for land Grabbing Cases, Tirunelveli.

For Petitioner : Mr.S.C.Herold Singh

For Respondent : Mr.B.Nambi Selvan
Additional Public Prosecutor



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O R D E R

This criminal revision has been filed seeking to set aside the order, passed in CrI.MP No.10928 of 2022 in CC No.67 of 2021, dated 24/11/2022 on the file of the Special Court for land Grabbing Cases, Tirunelveli.

2.A short point arises for consideration in this matter. The grievance of the revision petitioner is that the original complaint was given against five persons on the ground that there was a large scale criminal conspiracy between all the accused persons for committing the offence of cheating, misappropriation falsification of records etc. Investigation was completed and final report was filed only against four persons deleting the 5th accused on the ground that there was no involvement in the above said criminal conspiracy and he has performed his official duty, for which, no criminality can not attached .That is the finding of the Investigating Officer and filing of the final report.

3.But without issuing notice to the revision petitioner, cognizance has been taken by the trial court



against the accused persons and now the trial process is underway. It is settled position of law that while filing final report deleting some of the accused, intimation must be given to the de-facto complainant so that he can work out his remedy by way of filing protest petition. This procedure has been violated by the trial court in this matter. Even the report has been called for from the concerned court, it does not indicate with regard to the above said issue of notice, at that time of taking cognizance.

4. So without going to the other aspects, the revision petition is allowed, the impugned order passed by the trial court is set aside and taking cognizance of the case is set aside. The final report is restored to file and the trial court is directed to issue notice to the revision petitioner for making protest petition and if the protest petition is filed, the same must be decided on its own merit in accordance with law. Depending upon the outcome of the proceedings, further action may be taken by the parties.



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5. With the above said direction and liberty, this criminal revision stands **allowed**. Consequently, connected Miscellaneous Petition is closed.

06/01/2023

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

- 1.The Special Court for Land Grabbing Cases,
Tiruelveli.
- 2.The Inspector of Police,
Land Grabbing Cell,
Nagercoil,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G . ILANGO VAN , J

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