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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P No.7203 of 2023
and Crl.MP.No.4549 of 2023

1.Venkatachalam

2.V.Ramesh

..Petitioners/ Accused 1 & 2

.Vs.

The State rep.by
The Station House Officer
Sholatharam Police Station
Sholatharam
Cuddalore District.
(Crime No.167/2010)

.. Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order passed in CMP.No.960 of 2023 in C.C.No.134 of 2014 on the file of the District Munsif Cum Judicial Magistrate Court at Kattumannarkoil.

For Petitioner : Mr.B.Ramprabu

For Respondent : Mr.A.Gopinath
Government Advocate (Crl.side)



ORDER

This criminal original petition has been filed challenging the order passed by the Court below in CMP No.960 of 2023, dated 6.3.2023 dismissing the application filed by the petitioner under Section 91 Cr.PC, to call for the entire case records in C.C.No.1 of 2011.

2.Heard Mr.B.Ramprabu, learned counsel for the petitioner and Mr.A.Gopinath, learned Government Advocate (Crl.side) for the respondent.

3.There was a case and counter in Cr.Nos.166 and 167 of 2010, which was investigated by the respondent police. Both the cases ended in filing of final reports. Insofar as Cr.No.166 of 2010 is concerned, final report was taken on file in C.C.No.134 of 2014.

4.The counter case in C.C.No.1 of 2007 was compounded on the ground that the parties have compromised on 4.7.2014. However, for some reason, the case against the petitioners was continued in C.C.No.134 of 2014. In the course of trial, the petitioners wanted the Court to call for the entire records in C.C.No.1 of 2011. The Court below dismissed this application on the ground that such application was filed only to drag on the proceedings. The Court below also found that the petitioners can apply for certified copy in C.C.No.1 of 2011. Aggrieved by the same, the present petition has been filed before this Court.



5. In the considered view of this Court, C.C.No.1 of 2011 was disposed of by the same Court on the ground that the matter has been compromised between the parties. Thereafter, the accused person in that case continued to prosecute the present case against the petitioners. Therefore, the petitioners wanted to call for the records in CC.No.1 of 2011. The Court below ought to have called for the records, since it is available in the same Court and whereas, the application was dismissed on technical grounds. The said order passed by the Court below is perverse and the same is liable to be interfered by this Court.

6. In the light of the above discussion, the order passed by the Court below in Crl.MP.No.960 of 2023, dt.6.3.2023, is hereby set aside. The Court below shall call for the entire bundle in C.C.No.1 of 2011 and proceed further with the trial. The proceedings shall be completed within a period of **three months** from the date of receipt of copy of the order.

7. The learned Government Advocate (Crl.Side) appearing on behalf of the respondent submitted that C.C.No.134 of 2014 was subsequently transferred to the file of the District Munsif cum Judicial Magistrate, Neyveli, by virtue of the order passed by the Principal District and Sessions Judge, Cuddalore, vide Crl.MP.No.5079 of 2023, dated 8.11.2023. Hence, the direction issued by this Court shall be complied with by the District Munsif cum Judicial Magistrate, Neyveli.



8. In the result, this criminal original petition is allowed with the above directions. Consequently, connected miscellaneous petition is closed.

11.01.2024

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
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To

- 1.The Station House Officer
Sholatharam Police Station
Sholatharam
Cuddalore District.
- 2.District Munsif Cum Judicial Magistrate Court
Kattumannarkoil.
- 3.District Munsif cum Judicial Magistrate,
Neyveli.
- 4.The Public Prosecutor,
High Court of Madras,
Madras.



N. ANAND VENKATESH., J

KP

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