



WEB COPY



Crl.O.P.No.8014 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.04.2024

CORAM

THE HONOURABLE DR.JUSTICE **G.JAYACHANDRAN**

Crl.O.P.No.8014 of 2024

Vijayakumar

... Petitioner

Vs.

1.The Sub Inspector of Police,
Arumbavur Police Station,
Crime No.175/2023

2.Manokaran

3.Dhurairaj

4.Porkodi

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to direct the learned District Munsif cum Judicial Magistrate, Veppanthattai to take on the file of the unnumbered petition in Crl.M.P.No.. of 2024 filed under Section 173(8) of Cr.P.C., in C.C.No.100/2023

For Petitioner : Mr.D.Ashokkumar

For R1 : Mr.S.Udaya Kumar
Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition is filed by the defacto complainant being aggrieved by not entertaining his petition filed under Section



Crl.O.P.No.8014 of 2024

173(8) of Cr.P.C.

WEB COPY

2. According to the petitioner, the investigation agency has not properly investigated the case and without recording the statements of necessary witnesses had filed the final report and therefore, there is a necessity for further investigation. Further, it is contended that the Investigating Officer had not recovered the material objects which the weapon alleged to have been used by the accused persons. The trial Court returned the petition stating that how this petition is maintainable under law, at this stage of the case. It was also pointed out the procedural lapse on the part of the petitioner for presenting the petition physically instead of adopting e-filing.

3. Being aggrieved, the present petition is filed under Section 482 of Cr.P.C.

4. The learned Government Advocate (Crl.Side) appearing for the respondent police submits that the investigation in this case was completed as early as in the year 2023 and cognizance was taken by the trial Court in C.C.No.100 of 2023. On the day when the prosecution witnesses were present, this memorandum been presented physically



Crl.O.P.No.8014 of 2024

alleging that investigation not been done properly and stating it is an incomplete investigation without recording the statement of witnesses and no recovery of the material objects.

5. The learned counsel appearing for the petitioner submits that this memo was filed even before the witnesses mounted the witness box. However, the trial Court was not inclined to entertain the same and therefore, the petitioner is before this Court invoking inherent power of the High Court.

6. On perusal of the memorandum, this Court finds that a memorandum has been filed without mentioning the provision of law under which the prayer is made, which is not in tune with the procedure established. However, on realising the error, the petitioner has filed Crl.M.P.No... of 2024 on 08.02.2022 mentioning the provision of law and had sought for change of Investigating Officer and for further investigation. On the day when the petition was presented in the open Court, witnesses were present and examined. In fact the petitioner is one the witness, who was examined as PW.1 on that day, two other witnesses



Crl.O.P.No.8014 of 2024

were examined subsequently.

WEB COPY 7. Section 173(8) Cr.P.C., enable the Investigating Officer to make further investigation on collection of new material. He shall forward to the Magistrate along with further report or reports, regarding such evidence collected. This provision is an enabling provision for the Investigating Officer which specifically empowers him or permit him to conduct further investigation provided new materials are available.

8. The provision dispel the impression that once the final report is filed it precludes the Investigating Officer from forwarding new material collected or obtained which will be necessary for the Court to decide upon the charges framed against the accused persons. In this case, only on the day when the defacto complainant was summoned to appear to give evidence, he has thought fit to make allegations that the Investigating Officer has not done investigation properly and based on incomplete investigation, final report has been filed. The trial Court after taking note of the fact that it has been filed at the stage of commencement of examining the witnesses and the defacto complainant who have filed this petition had made some wild allegations against the Investigating



Crl.O.P.No.8014 of 2024

Officer regarding the investigation, does not find material substance to entertain the application. Hence had returned it with queries which reads as below:-

“1.How this petition is maintainable by law why at this stage of the case?

2.How this petition is maintainable filed by the defacto complainant?

3.How this petition is maintainable filing this physical filing after commencement of e-filing procedure?”

9. If at all the petitioner had any explanation for that, he should have represented it within 10 days since he had been given opportunity by the trial Court, instead he approached this Court and filed petition before this Court. Hence this Court do not find no reason to entertain the prayer which is not only belated but also bereft of details.

10. In view of the above, this Criminal Original Petition is dismissed.

02.04.2024

Index : Yes/No

Neutral Citation : Yes/No



Crl.O.P.No.8014 of 2024

Dr.G.JAYACHANDRAN,J.

rpl

To

- 1.The District Munsif cum Judicial Magistrate, Veppanthattai.
- 2.The Sub Inspector of Police,
Arumbavur Police Station.
- 3.The Public Prosecutor,
High Court of Madras,
Chennai.

Crl.O.P.No.8014 of 2024