



Crl.O.P.No.10784 of 2024

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:26.07.2024

Coram:

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

Crl.O.P.No.10784 of 2024

and

Crl.M.P.No.7313 of 2024

Prakasam

.. Petitioner

/versus/

1.State represented by
Inspector of Police,
Omalur Police Station,
Salem District.

2.Savukathali

.. Respondents

Criminal Original Petition has been filed under Section 482 of Cr.P.C., to call for the records pertaining to the case in C.C.No.194 of 2018 on the file of the Hon'ble Judicial Magistrate Court, Omalur and quash the same.

For Petitioner	:Mr.C.Deepakumar
For R1	:Mr.S.Udaya Kumar
	Govt.Advocate (Crl.Side)
For R2	:No appearance



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ORDER

This petition is filed to quash C.C.No.194 of 2018 pending against the petitioner for the offence under Sections 294(b), 323, 325 of IPC.

2. The learned counsel appearing for the petitioner submitted that the occurrence took place on 30.11.2017. For the same transaction, the petitioner herein has given a complaint to the respondent police, which was registered in Crime No.847 of 2017. However, without proper investigation of the counter complaint, the complaint registered in Crime No.846 of 2017 given by one Savukathali/second respondent alone was investigated and truncated final report has been filed.

3. The trial Court without proper appreciation of the material placed by the prosecution had taken cognizance of the offence. If it failed to take note of the fact that the Investigating Officer has not placed the material collected in the counter complaint in Crime No.847 of 2017, that



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4. When the matter came up for consideration, the learned Government Advocate (Crl.Side) stated that the investigation in the counter case completed and final report filed, however, sofar it was not taken on file by the Judicial Magistrate.

5. Notice to the second respondent was ordered and the same was served through Court on 07.06.2024. There is no representation on behalf of the second respondent.

6. The learned Government Advocate (Crl.Side) on verification of records, states that the final report in the counter case was filed, but the learned Magistrate has rejected it stating that it is barred by limitation under Section 468 of Cr.P.C. The documents relied by the prosecution in Crime No.846 of 2017 does not contain the counter-complaint given by the petitioner herein, which is registered in Crime No.847 of 2017. The statement recorded in that case is not available.



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7. The learned counsel appearing for the petitioner states that it was the complainant-party is the aggressor. Without proper investigation and following Police Standing Order 566, the Investigating Officer has proceeded one complaint without disclosing the pendency of the counter complaint. The Investigating Officer has thought fit that cognizable offence has been made out and has filed final report, but validly which has led to rejection of the final report by the Judicial Magistrate on the ground of limitation. Therefore, the learned counsel appearing for the petitioner submitted that the failure of the Investigating Officer in not following the PSO 566 has led to grave miscarriage of justice.

8. This Court on perusal of the records finds that the Investigating Officer in this case ought to have properly investigated the case in accordance with the Police Standing Order 566 and should have proceeded. But, he has miserably failed to place on record about the counter complaint. To add more agony, the final report in the counter complaint is not filed in time leading to rejection of the final report.



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9. In the said circumstances, to avoid miscarriage of justice, it is appropriate to allow this petition for perfunctory investigation and failure to adhere the Police Standing Officer 566. Accordingly, this Criminal Original Petition is allowed. The case in C.C.No.194 of 2018 pending on the file of the Judicial Magistrate Court, Omalur, Salem District, is hereby quashed. Consequently, connected Miscellaneous Petition is closed.

26.07.2024

Index:yes/no

Speaking order/non speaking order

Neutral Citation:yes/no

To:

- 1.The Judicial Magistrate Court, Omalur,Salem District.
- 2.Inspector of Police, Omalur Police Station, Salem District.
- 3.The Public Prosecutor, High Court, Madras.



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DR.G.JAYACHANDRAN,J.

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