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CrL.OP.No.10972 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.06.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CRL.OP.No.10972 of 2024

Prakash

... Petitioner

Vs.

The State rep by
Sub-Inspector of Police
Thali Police Station,
(Cr.No.323 of 2020)

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to set aside the returned docket order passed in unnumbered CrL.MP.SR.No.54 of 2024 in SC.No.66 of 2022 dated 28.03.2024 on the file of the Assistant Sessions Court, Denkanikottai and direct to entertain the petitioner and to number the un-numbered petition.

For Petitioner : Mr.A.Sundara Vadhanan

For Respondents : Mr.K.M.D.Muhilan
Government Advocate (CrL.Side)

ORDER

This Criminal Original Petition is filed to set aside the returned docket order passed in un-numbered CrL.MP.SR.No.54 of 2024 in SC.No.66 of 2022 dated 28.03.2024 on the file of the Assistant Sessions Court, Denkanikottai and direct to entertain the petitioner and to number the un-numbered petition.



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2. The petitioner is the defacto complainant in Cr.No.323 of 2020 dated 08.05.2020 on the file of Thally Kothanoor Police Station, Krishnagiri District. On completion of investigation, final report filed on 02.01.2021 and taken on file by the Additional Sessions Court, Denkanikottai in S.C.No.66 of 2022.

3. The case of the petitioner is that on perusal of the documents, relied by the prosecution filed along with final report, he finds that the report of one Manjunath, Sub-Inspector of Police, attached to the office of the Superintendent of Police along with material collected by him in the course of enquiry conducted by him, on the instructions of the Superintendent of Police, not been fully placed and relied by the prosecution particularly, the CCTV footage, which would disclose the movement of the petitioner and the accused who followed him before committing the offence.

4. Though recovered by the said Manjunath, Sub-Inspector of Police, does not form part of the record accompanying the final report. Therefore, the petitioner has filed an application for production of documents under Section 91 of Cr.P.C., But the same has not been



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entertained by the court below. Therefore, the present petition is filed under Section 482 of Cr.P.C., to direct the trial court to number the petition and pass orders in accordance with law.

5. Learned Government Advocate (CrL.Side) who took notice of the petition, on instructions, submits that no doubt Manjunath, Sub-Inspector of Police, conducted the internal enquiry and collected certain materials and placed before the Investigation Officer. But there is no CCTV footage collected as alleged by the petitioner.

6. This Court is not inclined to test or verify whether there was any CCTV footage collected in the course of investigation. This Court is only concerned with the prerogative of the trial court refusing to number the petition filed under Section 91 of Cr.P.C., and the reason stated for returning the petition does not satisfy the provision of law. The trial court ought to have numbered the petition and after hearing the respondent police, should have passed an appropriate order on merits. By not numbering the petition, the right of the defacto complainant has been foreclosed even without giving adequate opportunity. Therefore, the trial court is directed to take the application on file and after affording an



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opportunity to the respondent, pass an appropriate order on merits.

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7. The Registry is directed to return the original papers to the counsel to enable him to re-present the petition before the court below.

8. With the above direction, the Criminal Original Petition is disposed of.

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Index : Yes/No
Speaking/Non-speaking
gv

To

1. The Assistant Sessions Court,
Denkanikottai.
2. The Sub-Inspector of Police
Thali Police Station,
(Cr.No.323 of 2020)
3. The Public Prosecutor,
High Court of Madras,
Chennai.



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Dr.G.JAYACHANDRAN,J.

gv

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