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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.OP No.22414 of 2023
and Crl.MP.No.15585 of 2023

D.Shankar @ Shankar Duraikannu

...Petitioner/Accused No.2

.Vs.

1.State rep.by
Inspector of Police
Sembium Police Station
Chennai District.

.. 1st Respondent / Complainant

(Cr.No.619/2022)

2.Kavitha

..Respondent/ De facto Complainant

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records of the case in Crime No.619 of 2022 on the file of the Sembium Police Station, Chennai District and quash the same.

For Petitioner : Mr.C.Iyyapparaj
for Mr.G.Paramasivam

For Respondents : Mr..A.Gopinath
Government Advocate (Crl.Side)
for R1
Mr.B.Vasanthan for R2

**ORDER**

This petition has been filed to quash the FIR in Crime No.619 of 2022, on the file of Sembium Police Station, Chennai District.

2. When the matter came up for hearing on 19.1.2024, This Court passed the following order:

The learned counsel appearing for the petitioner submitted that when this Court had granted stay of investigation, the respondent Police proceeded further with the investigation and also filed a final report before the Vth Metropolitan Magistrate, Egmore, Chennai, and the same was taken on file in C.C.No.80/2024. This fact was also confirmed by the learned Government Advocate for the 1st respondent.

2. When this Court had granted stay of investigation, it is not known as to why the final report was filed before the Court below, which is in gross violation of the interim order passed by this Court. Hence, there shall be a direction to the 1st respondent to be present before this Court during the next date of hearing.

Post this case under the caption 'for passing further orders' on 24.01.2024.

3. When the matter was came up for hearing today, the affidavit of the 1st respondent was filed before this Court. The relevant portions are extracted hereunder:

7. I respectfully submit that in the meantime, the de facto complainant filed a direction petition before this Hon'ble High Court of Madras in CrI.OP.No.10070 of 2023, seeking to file the charge sheet against the accused and include all the offences committed by the accused persons based on the FIR



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No.619/2022, dated 19.10.2022. When the matter came up for hearing on 4.5.2023, this Hon'ble Court was pleased to pass the following order:-

"4.Considering the facts and circumstances of the case, this Court directs the respondent police to complete the investigation in FIR No.619 of 2022 dated 19.10.2022 pending on his file and file a final report within a period of three months from the date of the receipt of a copy of this order".

8.I respectfully submit that thereafter the Petitioner/Accused no.2 filed a Quash petition before this Hon'ble High Court of Madras seeking to quash/stay the Cr.No.619 of 2022 on the file of Sembium Police Station, Chennai in CrI.OP.No.22414 of 2023. When the matter was came up for hearing on 27.09.2023, this Hon'ble Court passed an following order:-

"2.A Prima Facie case has been made out for grant of an interim order and hence, there shall be an order of stay of investigation in Crime No.619 of 2022 on the file of 1st respondent police for a period of six weeks".

9.I respectfully submit that the interim order granted by the Hon'ble High Court of Madras in CrI.OP.No.22414 of 2023, dated 27.09.2023 was not communicated to the 1st Respondent and the 1st Respondent proceeded further. Even the petitioner has also not brought to the notice of the 1st Respondent about the interim order granted by this Hon'ble Court.

10.I respectfully submit that in compliance with the order passed by this Hon'ble Court in CrI.OP.No.10070 of 2023, dated 04.05.2023, the then Sub Inspector of Police conducted investigation in this case. After completion of investigation, the then Sub Inspector of Police filed charge sheet before the learned Vth Metropolitan Magistrate Court, Egmore, Chennai on



03.11.2023 vide E-filing No.68846 of 2023 and the same was taken on file on 10.01.2024 and assigned C.C.No.80 of 2024.

11.I respectfully submit that interim stay granted by this Hon'ble Court was not communicated to the then Sub Inspector of Police, was not known of the interim stay dated 27.09.2023 granted by this Hon'ble Court. Earlier the complainant obtained an order from this Hon'ble Court to complete the investigation and file a charge sheet within a period of 3 months in CrI.OP.No.10070 of 2023, dated 04.05.2023. Based on the order the then Sub Inspector of Police completed the investigation and filed a charge sheet, if the interim stay granted by this Hon'ble Court is brought to the notice of the 1st Respondent, she would have not filed the Charge Sheet before the learned V Metropolitan Magistrate Court, Egmore. I further submit that the act done by the then Sub Inspector of Police and the subsequent proceedings upon the act by me is neither willful nor wanton, it known to her, she never filed the Charge Sheet, ever then we once again tender unconditional apology, we are always obeying the Hon'ble Court order. Hence this Hon'ble Court may be pardon for us, hereafter it will not happen.

4.This Court is satisfied with the explanation given by the 1st respondent and the circumstances under which the final report was filed before the concerned Court.

5.Before closing this case, there is no use in the petitioner trying to wriggle out of this case since his wife is involved in this case and she has been arrayed as A1. A1 and the de facto complainant are advocates and they are known to each other and therefore, this Court hopes that the parties arrives at a settlement without further complicating the case. This advice is



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given to both the accused persons as well as the de facto complainant and it is for them to act upon the same.

6.This Criminal Original Petition is closed.

24.01.2024

Speaking Order/Non-Speaking Order
Index: Yes/No
Internet: Yes/No
kp

N.ANAND VENKATESH.J.,

kp



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To

1. Inspector of Police
Sembium Police Station
Chennai District.
2. Vth Metropolitan Magistrate
Egmore, Chennai.
3. The Public Prosecutor,
High Court of Madras.

CRL.OP No.22414 of 2023

24.01.2024