



Crl.R.C.No.1639 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2024

CORAM

THE HONOURABLE MR.JUSTICE **SUNDER MOHAN**

**Crl.R.C.No.1639 of 2024**  
**and Crl.MP No.13575 of 2024**

Rangammal Memorail Rehabilitation Society  
Rep. By its Secretary Mr.N.Vijayan  
Having Registered Office at  
Sambathanur Village,  
Tiruvannamalai - 606 611. ...

Petitioner

Vs.

1.The State Rep. by  
The Deputy Superintendent of Police,  
Tiruvannamalai Town,  
Tiruvannamalai District.

2.The Inspector of Police  
Kilpennathur Police Station,  
Tiruvannamalai.

3. A.B.Moorthy ...

Respondents

**Prayer:** Criminal Revision Petition is filed under Section 397 r/w 401 of Cr.P.C. to set aside the order passed in Dis.No.451 of 2024 dated 23.08.2024 by the learned Sessions Judge (FAC), Special Court for Trial of cases Under SC/ST (POA) Act, Tiruvannamalai.



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For Petitioner : Mr.V.Karthick  
For Respondents 1 & 2 : Mr.V.J.Priyadarsana  
Govt.Advocate (crl.side)  
For 3<sup>rd</sup> respondent : Mr.B.M.Subash

### **ORDER**

The revision challenges the order passed by the learned Sessions Judge directing the 2<sup>nd</sup> respondent to register a FIR and conduct investigation.

2(i) The third respondent herein had filed a complaint against the petitioner and others alleging commission of offence under Section 420 and Section 3(l)(f)(g) of SC/ST Act. The second respondent had not taken any action on the said complaint and hence the third respondent had approached the Special Judge, under Section 156(3) of Cr.P.C. for registration of FIR. Without numbering the said petition, the learned Sessions Judge, had forwarded the petition received from the third respondent to the first respondent herein for taking necessary action and to file a report.



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2(ii) The first respondent had conducted a preliminary enquiry and

had filed a report on 01.04.2024 stating that no cognizable offences were made out and that the complaint only discloses civil dispute and it is for the complainant to approach the Civil Court to redress his grievance. The learned Judge, thereafter had issued notice to the third respondent and called upon him to file a protest petition against the said report to the first respondent. The third respondent filed his written submissions on 08.08.2024. The learned Sessions Judge had sent the impugned communication to the first respondent stating that since the complaint was forwarded to the first respondent, the first respondent ought to have registered a FIR and conducted investigation, instead of closing it, as done in this case.

3. Mr.V.Karthik, learned Senior Counsel for the petitioner would submit that the procedure adopted by the learned Sessions Judge is not in accordance with law, that the learned Judge had just forwarded the complaint of the third respondent in his letter dated 05.03.2024 addressed to the first respondent and had not directed the first respondent to register a FIR and therefore the impugned communication which states that the earlier direction was to register a FIR cannot be sustained; that in



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any case, the third respondent was given an opportunity to file his objections to the report of the first respondent and instead of filing objections, the third respondent has chosen to file only written submissions and without considering the same on merits, the learned Judge had simply addressed a letter to the first respondent to register a FIR.

4. The learned counsel for the third respondent, per contra, would submit that the complaint of the third respondent discloses cognizable offences; that the first respondent was not justified in closing the case; that there is no infirmity in the communication sent by the learned Judge to the first respondent and in any case, the petitioner who is the proposed accused has no *locus standi* at this stage to challenge the impugned communication and prayed for dismissal of the revision.

5. Heard the learned Senior Counsel for the petitioner as well as the learned counsel for the third respondent and the learned Government Advocate(crl.side) for the respondents 1 & 2 and perused the records.

6. Since the challenge to the impugned communication is on the ground that the procedure followed by the learned Judge is not in



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accordance with law and not on merits, this Court is inclined to entertain this revision by the proposed accused.

7. On perusal of the impugned proceedings and the communication sent by the learned Judge, this Court is of the view that the procedure adopted by the learned Judge is not in accordance with the procedure prescribed under Cr.P.C. The learned Judge had, without considering the petition filed by the third respondent under Section 156 (3) of Cr.P.C. on merits, had simply forwarded the complaint and had sent a communication to the first respondent to take necessary action and file a report. Accordingly, the first respondent had conducted preliminary investigation and had filed a detailed report giving reasons as to why the complaint cannot be registered as a FIR and that it only discloses civil dispute. The learned Judge, thereafter, without considering the objections (filed in the form of written statement) from the third respondent on merits, had sent the impugned communication to the first respondent to register a FIR on the premise that the earlier communication sent by the learned Judge was for registration of FIR, which is again contrary to the procedure. The learned Judge is expected to pass a judicial order, in accordance with law, on the objections filed by the third respondent.



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8. In the above said circumstances, this Court is of the view that the impugned communication sent by the learned Judge to the first respondent to register a FIR, cannot be sustained and hence is liable to be set aside. However, it is open to the third respondent to file his objections, if not filed already and the learned Judge, on consideration of the report of the first respondent and the objections, may thereafter pass a judicial order, in accordance with the procedure contemplated under the Cr.P.C.

9. With the above observations, this Criminal Revision is allowed and the impugned communication passed in Dis.No.451 of 2024 dated 23.08.2024 by the learned Sessions Judge (FAC), Special Court for Trial of cases under SC/ST (POA) Act, Tiruvannamalai is set aside,

**26.11.2024**

Index : Yes/No  
Neutral Citation : Yes/No  
Speaking order/Non-speaking order  
rgr

To

1.The Sessions Judge (FAC),  
Special Court for Trial of cases  
under SC/ST (POA) Act,  
Tiruvannamalai.



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2.The Deputy Superintendent of Police,  
Tiruvannamalai Town,  
Tiruvannamalai District.

3.The Inspector of Police  
Kilpennathur Police Station,  
Tiruvannamalai.

4.The Public Prosecutor,  
High Court of Madras,  
Chennai.



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**SUNDER MOHAN, J.**

rgr

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