



WEB COPY



Crl.RC No.2194 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.12.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.2194 of 2024

Selvarasu

... Petitioner/Victim

Vs.

The Sub Inspector of Police,
Avinangudi Police Station,
Cuddalore District.

(Cr.No.19/2021

... Respondent/Complainant

PRAYER: Criminal Revision Case filed under Sections 438 r/w 442 of the BNSS, to call for the records in connection with impugned order passed by the learned Judicial Magistrate, Thittagudi, Cuddalore District, in CMP No.388 of 2023 and CMP No.2087 of 2024, dated 29.08.2024 and set aside the same as illegal and subsequently directing the respondent police to conduct further investigation.

For Petitioner : Mr.M.Velmurugan

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

ORDER

The Criminal Revision Case has been filed challenging the order dated 29.08.2024 made in C.M.P.No.388 of 2023 and C.M.P.No.2087 of



Crl.RC No.2194 of 2024

2024 on the file of the learned Judicial Magistrate, Thittagudi, Cuddalore District, dismissing the petitioner's protest petition filed before the learned Magistrate.

2. According to the petitioner, six persons had caused injury to the witness; that the respondent without conducting proper investigation had deleted four accused in the final report and had filed the final report only as against two accused; that the respondent had not examined the injured witness during the course of the investigation; that after the filing of the final report, the result of the investigation was not informed to the petitioner as mandated under Section 173(2)(ii) of Cr.P.C.; and that the learned Magistrate without considering all these aspects, has dismissed the protest petition erroneously.

3. The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the independent witnesses examined by the prosecution have stated about the involvement of two accused persons, which is corroborated by the entries in the Accident Register and therefore, the allegation of the *de facto* complainant and the injured witness that six persons were involved, is improbable and therefore, the



learned Magistrate was right in dismissing the protest petition.

WEB COPY

4. Heard the rival submissions made on either side and perused the materials available on record.

5. On perusal of the impugned order, this Court finds that the learned Magistrate had perused the statements of the witnesses and held that the investigating officer had correctly concluded that only two persons were involved in the offence. Though, the respondent has not informed the result of the investigation, it appears that the learned Magistrate had issued notice to both the *de facto* complainant and the petitioner about the deletion of the accused and the petitioner had participated in the proceedings and put forth his case before the learned Magistrate. In such circumstances, this Court is of the view that no prejudice has been caused to the petitioner by the act of the respondent in not informing the petitioner about the result of the investigation.

6. Be that as it may. The learned Magistrate on merits after perusing the statements of the witnesses found that there is material to



Crl.RC No.2194 of 2024

proceed only as against two accused names in the final report. There is no infirmity in the said finding since the learned Magistrate had considered all the relevant materials before dismissing the protest petition. However, this Court is of the view that during the course of the trial, if further evidence is adduced to establish the involvement of the deleted accused, it is always open to the prosecution to summon such accused under Section 319 of the Cr.P.C., as additional accused, in accordance with law.

7. The Criminal Revision Case stands dismissed in the above terms.

10.12.2024

Index: Yes/No
Speaking/Non-speaking order
Neutral citation: Yes/No.
ars

To

1. The Judicial Magistrate,
Thittagudi, Cuddalore District.

2. The Sub Inspector of Police,
Avinangudi Police Station,
Cuddalore District.



Crl.RC No.2194 of 2024

3. The Public Prosecutor,
High Court, Madras.

WEB COPY



WEB COPY



Crl.RC No.2194 of 2024

SUNDER MOHAN, J.

ars

Crl.R.C.No.2194 of 2024

10.12.2024



WEB COPY



Crl.RC No.2194 of 2024