



CRL OP(MD). No.398 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 13.06.2024

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The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD) .No.398 of 2023

and

Cr1.M.P. (MD)No.306 of 2023

1. Malliga
2. Madasamy
3. Kumar ... Petitioners

Versus

State through by

1. The Inspector of Police,
Vilathikulam Police Station,
Tuticorin District.

2. Jothimani ... Respondents

This petition filed under Section 428 Cr.P.C. to call for the record relating to the FIR in Crime No. 342 of 2022 dated 28.12.2022 on the file of the 1st respondent and quash the same.

For petitioners : Mr.M.Subash Babu

For R1 : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor

For R2 : Mr.Aayiram K.Selvakumar



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ORDER

The petitioners are the accused in Crime No.342 of 2022 on the file of the first respondent. They have filed this petition to quash the FIR in Crime No.342 of 2022 pending against them.

2. The learned counsel appearing for the petitioners has circulated a letter dated 11.06.2024 to the Registrar (Judicial) for withdrawing this petition.

3. The learned counsel for the respondent/defacto complainant has raised certain objections that this Court, while entertaining the quash petition on 09.01.2023, has passed an interim order directing the respondent Police not to file a final report in Crime No.342 of 2022. Despite the orders of this Court, the respondent Police, in order to help the accused, has closed the investigation and also filed the final report as mistake of fact. According to him, the defacto complainant was not at all



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examined and RCS notice was also not served, which would amount to contempt of the Court. Therefore, he insisted this Court to take serious view on the conduct of the respondent Police in filing the final report without considering the interim order passed by this Court on 09.01.2023.

4. The learned Additional Public Prosecutor appearing for the respondent Police submits that the respondent Police, without knowing the interim order granted by this Court on 09.01.2023, has completed the investigation and filed the final report. The act of the respondent Police is neither willful nor wanton.

5. This Court considered the rival submissions.

6. The 2nd respondent/defacto complainant is having a grievance against the respondent Police that the investigation has not been conducted in a proper manner.



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8. Now, the final report has been filed. Therefore, this Court is not inclined to proceed with the matter as the 2nd respondent/defacto complainant is having remedy before the concerned Court.

9. Therefore, this Criminal Original Petition is dismissed as withdrawn with a direction to the investigating agency to serve RCS notice to the defacto complainant along with the final report within a period of two weeks from the date of receipt of a copy of this order. On receipt of the same, the defacto complainant/respondent is also at liberty to approach the concerned Judicial Magistrate and file a protest petition. On filing such protest petition, the concerned Judicial Magistrate shall take a call



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on merits of the case and pass suitable orders either for further investigation or for transfer of investigation to some other investigating agency. Consequently, connected miscellaneous petition is closed.

(B P J)
13.06.2024

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TO

1. The Inspector of Police,
Vilathikulam Police Station,
Tuticorin District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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