



Crl.O.P.(MD)Nos.2751 of 2023 and 7587of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 23.07.2024

CORAM

THE HON'BLE MR.JUSTICE B.PUGALENDHI

Crl.O.P.(MD)Nos.2751 of 2023 and 7587of 2024

and

Crl.M.P.(MD)No.5336 of 2024

Crl.O.P.(MD)No.2751 of 2023

D.Gandhimathi

... Petitioner

versus

1. The Superintendent of Police,
Madurai Rural, Surveyor Colony,
Madurai District Police Office,
Madurai.
2. The Inspector of Police,
Sholavandan Police Station,
Sholavandan,
Madurai District.
3. Alagammal
4. Anantha Eswari
5. S.Muthumari
6. Raj Abishek



Crl.O.P.(MD)Nos.2751 of 2023 and 7587of 2024

7. Gowsik

8. Dr.Selin

... Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. to direct the 1st and 2nd respondents to do further investigation immediately in Crime No.257 of 2016 on the file of the 2nd respondent Police and to proceed to file the charge sheet against the culprits within the period that may be stipulated by this Court.

For Petitioner : Mr.Niranjan S.Kumar

For R1 and R2 : Mr.P.Kottaichamy,
Government Advocate (Crl. Side)

For R3 : Mr.S.Deenadhayalan

Crl.O.P.(MD)No.7587 of 2024

1. Anantha Eswari
2. Muthumari
3. Raj Abisek
4. Gowsik
5. Alagammal

... Petitioners

versus

1. The State
Rep. by Inspector of Police,
Sholavandan Police Station,
Madurai.



Crl.O.P.(MD)Nos.2751 of 2023 and 7587of 2024

WEB COPY

2. Gandhimathi

3. The Superintendent of Police,
Madurai.
(R3 is *suo motu* impleaded as per
order dated 09.07.2024)

... Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. to
call for the records in pursuant to summons dated 16.05.2024 issued
by the respondent Police in Crime No.257 of 2016 to the petitioners
and quash the same.

For Petitioner : Mr.S.Deenadhayalan

For R1 and R3 : Mr.P.Kottaichamy,
Government Advocate

For R2 : Mr.Niranjana S.Kumar

COMMON ORDER

The petitioners in Crl.O.P.(MD)No.7587 of 2024 have filed
this petition as against the summon dated 16.05.2024 issued by the
respondent Police, calling upon them to appear for enquiry in Crime
No.257 of 2016.



Crl.O.P.(MD)Nos.2751 of 2023 and 7587of 2024

2. The learned counsel for the petitioners in Crl.O.P.(MD)No. 7587 of 2024 submits that a case in Crime No.257 of 2016 was registered on 13.07.2016 for the offence under Sections 406, 420 and 506(i) IPC and after conducting the investigation, the respondent Police, on 14.07.2016, filed a final report as “action dropped”. After eight years, the respondent Police has once again issued a summon dated 16.05.2024 under Section 41-A Cr.P.C., calling upon the petitioners to appear for enquiry in Crime No.257 of 2016 which was already closed as “action dropped” on 14.07.2016. Therefore, the petitioners have challenged the summon issued under Section 41-A Cr.P.C.

3. The learned Government Advocate (Crl. Side) submits that one Gandhimathi has lodged a complaint before the respondent Police on 13.07.2016 that her husband, one Durairaj, was working as Office Assistant in the Sales Tax Office and after his retirement, he died on 23.05.2006; after the death of her husband, she received the death cum retirement gratuity amount to the tune of Rs.4 lakhs; she



Crl.O.P.(MD)Nos.2751 of 2023 and 7587of 2024

was having 34 sovereigns of gold ornaments and also having a sum of Rs.7 lakh from the sale of her property; she handed over the said amount, jewels and also the land documents to her sister one Alagammal for safe custody; however, her sister Alagammal has created a forged power deed in favour of her sister's daughter one Anantha Eswari and conveyed all the properties in favour of her daughter's sons, Raj Abishek and one Gowsik. The said complaint was registered in Crime No.257 of 2016 for the offence under Sections 406, 420, 506(i) IPC on 13.07.2016 at about 6.00 p.m. The said Gandhimathi has appeared before the respondent police on 08.08.2016 and stated that she is not interested in prosecuting the complaint that the accused have agreed to cancel the power deed, return the amounts, jewels and all the documents. However, the case appears to have been closed as “action dropped” on 14.07.2016 before the agreement arrived at between the parties on 08.08.2016.

4. The learned Government Advocate (Crl. Side) further submits that the said Gandhimathi has also filed several applications



CrI.O.P.(MD)Nos.2751 of 2023 and 7587of 2024

before this Court and the same were closed as if the final report was filed as “action dropped”. Thereafter, the said Gandimathi has submitted a petition, on the grievance day, before the Superintendent of Police, Madurai District. The Superintendent of Police, Madurai, by his proceedings dated 25.07.2022, has referred the said petition to the Additional Superintendent of Police (Crime against Women and Children), Madurai. The Additional Superintendent of Police, vide his report dated 18.08.2022, has made a recommendation for registration of the case. The Legal Advisor to the Superintendent of Police Madurai, gave an opinion on 12.08.2022 that the case can be taken up against the accused persons. Therefore, the Superintendent of Police, Madurai District, by his memo dated 20.09.2022, directed the Deputy Superintendent of Police to conduct further enquiry in Crime No.257 of 2016, which was already closed as “action dropped” on 14.07.2016 and submit a detailed report. Accordingly, the Deputy Superintendent of Police, Samayanallur Sub Division, by his letter dated 22.09.2022, directed the Inspector of Police, Sholavandan, to take up the case for further investigation and send a



Crl.O.P.(MD)Nos.2751 of 2023 and 7587of 2024

report. But, it has been wrongly projected that the Superintendent of Police has ordered for re-investigation. The Superintendent of Police has ordered only for enquiry in order to ascertain the real facts on the petition which was received on the grievance day. In the meantime, the Gandhimathi has filed Crl.O.P.(MD)No.2751 of 2023 seeking a direction to the respondents 1 and 2 to conduct further investigation in Crime No.257 of 2016.

5. This Court considered the rival submissions made and also perused the materials available on record.

6. The defacto complainant in Crime No.257 of 2016 is a old lady and widow. She has entrusted her cash, jewels and land documents with her sister Alagammal for safe custody. The said Alagammal cheated her, by creating a forged power deed in favour of one Ananda Eswari, who is the daughter of her sister and transferred all the properties in the name of one Raj Abishek and Gowsik, who are the sons of her sister. Therefore, the defacto



Crl.O.P.(MD)Nos.2751 of 2023 and 7587of 2024

complainant has lodged a complaint before the respondent Police and the same was registered in Crime No.257 of 2016 for the offence under Sections 406, 420 and 506(i) IPC on 13.07.2016. The defacto complainant has appeared before the respondent police on 08.08.2016 and submitted that the accused have agreed to cancel the power deed, return the jewels, cash and all the documents and therefore, she is not interested to prosecute the case. But, the complaint was closed as “action dropped” on 14.07.2016. It appears that even before the agreement arrived at between the parties on 08.08.2016, the respondent Police, in a hurried manner, closed the case in Crime No.257 of 2016 as “action dropped”. The defacto complainant has also approached this Court by way of filing various petitions before this Court and the same were closed, based on the representation made on behalf of the respondent Police that final report was filed as “action dropped”. This Court has also rejected the petitions filed by the defacto complainant without ascertaining the manner in which the final report was filed in Crime No.257 of 2016. The case in Crime No.257 of 2016 was closed by the



Crl.O.P.(MD)Nos.2751 of 2023 and 7587of 2024

respondent police in a dubious manner on the next date of registering the case.

7. The summon dated 16.05.2024 has been issued based on the proceedings of the Superintendent of Police and Additional Superintendent of Police. The Superintendent of Police has received a petition from the defacto complainant on the grievance day and forwarded the same to the Additional Superintendent of Police. The Additional Superintendent of Police, finding that the case has been closed in an outrageous manner, directed the Deputy Superintendent of Police, Samayanallur Sub Division, to conduct further enquiry, who, in turn, has directed the Inspector of Police, Sholavandan Police Station, to conduct further enquiry.

8. Section 173(8) Cr.P.C. empowers the prosecution to further investigate into the matter in respect of any offence, even after filing a report under Section 173(2) of Cr.P.C. and to file a further report or reports regarding such evidence. The said provision is extracted



CrI.O.P.(MD)Nos.2751 of 2023 and 7587of 2024

as under:

WEB COPY

“Nothing in this section shall be deemed to preclude further investigation in respect of an offence after a report under sub-section (2) has been forwarded to the Magistrate and, where upon such investigation, the officer-in-charge of the police station obtains further evidence, oral or documentary, he shall forward to the Magistrate a further report or reports regarding such evidence in the form prescribed; and the provisions of sub-sections (2) to (6) shall, as far as may be, apply in relation to such report or reports as they apply in relation to a report forwarded under sub-section (2).”

9. Section 41-A Cr.P.C. enables the police officer to issue a notice for enquiry, based on a complaint or credible information or a reasonable suspicion, if any cognizable offence has been committed.

10. In this case, the defacto complainant has submitted a petition, as to the manner in which the case has been closed on the



Crl.O.P.(MD)Nos.2751 of 2023 and 7587of 2024

next date of registration of the complaint, before the Superintendent of Police on the grievance day. The Superintendent of Police has also forwarded the same, for verification, before the Additional Superintendent of Police. The Additional Superintendent of Police has verified the same and also suggested the Deputy Superintendent of Police to enquire into the issue. The Deputy Superintendent of Police in turn has directed the Inspector of Police to look into the issue. Therefore, this Court does not find any error in the impugned notice. Accordingly, Crl.O.P.(MD)NO.7587 of 2024 is dismissed. Consequently, connected miscellaneous petition is closed.

11. It appears that the Inspector of Police has hurriedly closed the case in Crime No.257 of 2016 on the next date of registration of the complaint, even before the agreement has been arrived at between the parties on 08.08.2016. This Court is also having a doubt as to the manner in which the case has been closed. Therefore, this Court directs the respondent Police to conduct re-investigation in Crime No.257 of 2016 and file a final report within a period of eight



CrI.O.P.(MD)Nos.2751 of 2023 and 7587of 2024

weeks from the date of receipt of a copy of this order.

WEB COPY

12. With the above direction, CrI.O.P.(MD)No.2751 of 2023 is disposed of.

23.07.2024

Index : Yes / No.
Internet : Yes / No.
NCC : Yes / No.
ogy

To

1. The Superintendent of Police,
Madurai Rural, Sarveyar Colony,
Madurai District Police Office,
Madurai.
2. The Inspector of Police,
Sholavandan Police Station,
Sholavandan,
Madurai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



CrI.O.P.(MD)Nos.2751 of 2023 and 7587of 2024

B.PUGALENDHI, J.

ogy

CrI.O.P.(MD)Nos.2751 of 2023 and 7587of 2024

23.07.2024