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CrI.O.P.(MD) No.4452 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.03.2024

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THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P (MD) No.4452 of 2024

and

CrI.M.P.(MD) Nos.3499 and 3500 of 2024

Nepolean

...Petitioner

vs

1.The Inspector of Police,
Pavoorchatram Police Station,
Tenkasi District.
Crime No.126 of 2000

2.The Sub Inspector of Police,
Pavoorchatram Police Station,
Tenkasi District.

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying, to call for the records of the impugned charge sheet in STC.No. 1119 of 2023 on the file of the learned Judicial Magistrate, Tenkasi and quash the same as illegal.

For Petitioner : Mr.P.Edin Brough
For Respondents : Mr.B.Thanga Aravindh
Government Advocate (CrI.side)



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ORDER

The learned Counsel for the Petitioner seeks to quash the charge sheet in S.T.C.No.1119 of 2023 pending on the file of the learned Judicial Magistrate, Tenkasi. It is the contention of the learned Counsel for the Petitioner that the FIR was registered on 19.03.2020 for the offence under Section 75 of Tamil Nadu City Police Act, 1888. Further, it is the contention of the learned Counsel for the Petitioner that the *defacto* Complainant and the Investigation Officer are one and the same. Therefore, such final report is not maintainable before the Court. Also, it is submitted that it is barred by limitation. It is hit by Section 468 Cr.P.C. Further, he submitted that the learned Judicial Magistrate, Tenkasi had taken the final report on file in the month of May, 2023, but had not taken cognizance of the offence as per Cr.P.C.

2.The learned Government Advocate (CrI.side) vehemently objected to the submission of the learned Counsel for the Petitioner stating that the Petitioner is having 14 previous cases.



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3.The learned Counsel for the Petitioner submits that in 8 cases after full trial, the Petitioner was acquitted.

4.Considering the submission made by the learned Counsel for the Petitioner and the learned Government Advocate (Crl.side), even though the learned Government Advocate (Crl.side) has reason to dispute the contention of the learned Counsel for the Petitioner stating that 14 cases are pending against the accused, the case before this Court is different from all other cases. It is a case, where the case was registered for the offence under Section 75 of Tamil Nadu City Police Act, 1888 by the first Respondent. He himself is the *defacto* Complainant and the Investigation Officer, which is against the principles governing criminal justice. The Complainant has a point to accuse the person. Thus, bias in the Complaint itself will be developed into final report, when the Complainant himself is the Investigation Officer. Therefore, the Complainant himself being Investigation Officer will not be maintainable in a Court of law. Similarly, the case for the offence under Section 75 of Tamil Nadu City Police Act, 1888, has lost jurisdiction for the Investigation Officer, but that discretion is



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applicable only in territories, which are notified by the Government of Tamil Nadu Local Body, the Department of Municipal Administration, which notifies the Districts and Municipalities in various Districts. At least, the territorial jurisdiction of the Police Station should have Municipal area or the City Police Act to be notified by the Commissionerate of the respective Corporations. Here, Tenkasi is not a Commissionerate notified by the Tamil Nadu Government by issuing separate Gazette notification. Pavoorsathiram is not within Tenkasi Headquarters, which is a Municipality. Under those circumstances, three infirmities are attracted in this case. Therefore, the case cannot be stand on its own legs before the Court of law. Therefore, the vehement objection of the learned Government Advocate (Crl.side) is rejected.

In the result, this Criminal Original Petition is allowed. In the light of the technicalities involved in this case, the charge sheet in STC.No.1119 of 2023 on the file of the learned Judicial Magistrate, Tenkasi is hereby quashed.



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Consequently, connected Miscellaneous Petitions are closed.

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Internet: Yes./No

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Index: Yes/No

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To

- 1.The Inspector of Police,
Pavoorchatram Police Station,
Tenkasi District.
- 2.The Sub Inspector of Police,
Pavoorchatram Police Station,
Tenkasi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SATHI KUMAR SUKUMARA KURUP, J.

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