



Crl.R.C.(MD).No.377 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 12.04.2024

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.R.C(MD). No.377 of 2024
and
Crl.M.P.(MD).No.4274 of 2024

M.Venkatesh

... Petitioner/Petitioner/Accused No.9

Vs.

The State Rep. by
The Inspector of Police,
Seidunganallur Police Station,
Thoothukudi District.
(Crime No.118/2023)

... Respondent/Respondent/Complainant

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to call for the entire records pertaining to the order passed by the learned Judicial Magistrate No.II, Srivaikundam, Thoothukudi in Cr.M.P.No.187 of 2024 in P.R.C.No.125 of 2023 dated 19.03.2024 and set aside the same and consequently direct the respondent to conduct further investigation in Crime No. 118 of 2023 pending on his file and to proceed the same for filing the final report thereafter.



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For Petitioner : Mr.R.Anand
For Respondent : Mr.B.Nambiselvan,
Additional Public Prosecutor
: Mr.S.Sivaprakash,
for Defacto Complainant

ORDER

The petitioner, who is A9 filed this revision challenging the order passed by the learned Judicial Magistrate No.II, Srivaikundam, Thoothukudi, in Cr.M.P.No.187 of 2024 in P.R.C.No.125 of 2023 dated 19.03.2024 and consequently direct the respondent to conduct further investigation in Crime No. 118 of 2023 pending on his file and to proceed the same for filing the final report thereafter.

2.The case of the prosecution is that on 03.08.2024, at about 5.10 p.m., due to dispute relating to payment of Advocate fees, the petitioner and other accused were said to have attacked the deceased with Aruval. Thereby, the deceased sustained injuries and died on the spot. Based on the complaint given



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by the wife of the deceased, the respondent police registered a case in Crime No. 118 of 2023. After completion of the investigation, the respondent Police filed the final report and the same was taken on file in P.R.C.No.125 of 2023 by the learned Judicial Magistrate No.II, Srivaikundam, Thoothukudi. Pending the same, the petitioner filed petition in Cr.M.P.No.187 of 2024 for further investigation on the ground that on the date of occurrence, he was not present at the scene of occurrence. To substantiate the same, he produced number of the documents and electronic evidence before the investigating officer. The investigating officer without considering the same, filed the final report against the petitioner. The said petition was dismissed by the learned trial Judge by passing the impugned order. Challenging the same, the present revision is filed.

3.The learned counsel appearing for the petitioner submitted that the petitioner was not present in the scene of occurrence as alleged in the final report. Subsequently, he has produced number of documents. All are material documents. The same were not considered by the investigating officer and final report was filed. In the said circumstances, his plea is to be considered.



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4.The learned Additional Public Prosecutor on instructions submitted that the learned trial Judge correctly dismissed the petition and there is no locus standi for the petitioner to file this petition to seek further investigation. Apart from that, all the documents produced by the accused could be considered by the learned trial Judge, if they were produced as defence documents, during the course of the trial. Hence, he seeks for dismissal of this petition.

5.This Court considered the rival submission made on either side and perused the materials available on record and the impugned order.

6.As rightly pointed out by the learned Additional Public Prosecutor that the petitioner filed a petition under Section 173(8) of Cr.P.C., which is not maintainable. Apart from that, it is open to the petitioner to produce all the documents as defence documents, during the course of the trial. On the request of the learned counsel appearing for the petitioner, the said plea to be considered by the learned trial Judge on the date of trial without getting influenced by the order passed by this Court. The said request is accepted by this Court. The learned trial Judge is directed to consider the defence documents of the accused at the time of the trial as per law.



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7. Accordingly, this criminal revision case is dismissed. Consequently, the connected criminal miscellaneous petition is closed.

12.04.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No

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To

1. The Learned Judicial Magistrate No.II,
Srivaikundam, Thoothukudi.
2. The Inspector of Police,
Seidunganallur Police Station,
Thoothukudi District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
4. The Section Officer,
Criminal Section(Records),
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN, J.

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