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CrI.O.P.(MD)No.6921 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CrI.O.P.(MD) No.6921 of 2023

Christurajan

... Petitioner

Vs.

1.The Director General of Police,
O/o. the Director General of Police,
Chennai.

2.The Superintendent of Police,
Thoothukudi,
Thoothukudi District.

3.The Inspector of Police,
Thazhamuthunagar Police Station,
Thoothukudi District.
(In Crime No.576/2017)

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the closure report in FR-167/2022 dated 09.07.2022 in Cr.No.576/2017 on the file of the third respondent and set aside the same and direct the above case in Crime No. 576/2017 to be re-investigated by any other independent investigating agency away from the District of Thoothukudi.

For Petitioner : Mr.B.N.Raja Mohamed

For Respondents : Mr.S.Ravi,
Additional Public Prosecutor



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Crl.O.P.(MD)No.6921 of 2023

ORDER

This petition has been filed challenging the closure report filed by the third respondent in Crl.M.P.No.576 of 2017 before the learned Judicial Magistrate No.II, Thoothukudi and for a consequential direction to transfer this case to any other investigating agency to reinvestigate the case.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent Police.

3. The petitioner is the *defacto* complainant. The specific case of the petitioner is that the accused persons have grabbed the property belonging to the petitioner by creating false and fabricated documents. The complaint given by the petitioner was registered by the third respondent in Crime No.576 of 2017 for the offence under Sections 420 and 468 of IPC. On completion of investigation, a “further action dropped” report was filed before the Court below mainly on the ground that the parties are already agitating their rights before the Civil Court and that no documents were produced by either side during the course of



investigation. Aggrieved by the same, the present petition has been filed before this Court.

4. In the considered view of this Court, the facts of the present case does not warrant any reinvestigation by any other agency. The power exercised under Section 482 of Cr.P.C. for ordering reinvestigation is an extraordinary power which should be exercised rarely as per the dictum of the Hon'ble Apex Court.

5. The petitioner is aggrieved by the conclusion arrived at by the Investigating Officer by filing the closure report. This grievance can always be redressed before the Magistrate Court by filing a protest petition. On filing a protest petition, the learned Magistrate is given the option of treating it as a private complaint and proceeding further in accordance with law. In the alternative, the learned Magistrate, can also order for further investigation and in appropriate cases, can also direct the Superintendent of Police to monitor the investigation. The learned Magistrate can also independently deal with the protest petition and pass final orders by taking cognizance and issuing process to the accused persons. When such a wide power is available to the learned Magistrate, this Court cannot exercise its jurisdiction under Section 482 of Cr.P.C. in a case of this nature.



Crl.O.P.(MD)No.6921 of 2023

6. In the light of the above discussion, liberty is granted to the petitioner to file a protest petition before the learned Judicial Magistrate No.II, Thoothukudi, by raising all the grounds. The learned Magistrate shall deal with the same in the light of the judgments of the Hon'ble Apex Court in the case of *Vishnu Kumar Tiwari Vs. State of Uttar Pradesh* reported in **2019 (5) CTC 603**. The final decision in the protest petition shall be taken within a period of eight weeks from the date of filing of the protest petition by the petitioner.

7. This Criminal Original Petition is disposed of in the above terms.

19.11.2024

Index : Yes/No

Internet : Yes/No

TSG

To

1.The Judicial Magistrate No.II,
Thoothukudi.

2.The Director General of Police,
O/o. the Director General of Police,
Chennai.

3.The Superintendent of Police,
Thoothukudi,
Thoothukudi District.



Crl.O.P.(MD)No.6921 of 2023

4.The Inspector of Police,
Thazhamuthunagar Police Station,
Thoothukudi District.
(In Crime No.576/2017)

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

N.ANAND VENKATESH. J.

TSG



WEB COPY



Crl.O.P.(MD)No.6921 of 2023

Crl.O.P.(MD)No.6921 of 2023

19.11.2024