



Crl.R.C(MD)No.1374 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on	:	09.07.2024
Pronounced on	:	01.08.2024

CORAM :

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.R.C(MD)No.1374 of 2023

and

Crl.M.P.(MD).No.17465 of 2023

Nivas

... Petitioner/Petitioner/Defacto Complainant

Vs.

1. Mathivanan

2. Kathirvel

3. Perumal

4.Narayanan

5.Vellaiyan Chettiyar

6.Ganesan

7.Raman

8. Indumathi

9. Rasagopal

10.Manimekalai



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11.Gogul

12.Rakul

13.Kamala

14.Nagarajan

15.Raja

16.Pillappan

17.Manivanan .. Respondents/Respondents/ 1 to 17 Accused

18.The Inspector of Police,
Thirumayam Police Station,
Pudukkottai District.
(Crime No.430 of 2021) ... Respondent/Respondent/Complainant

PRAYER: Criminal Revision filed under Section 397 r/w 401 of the Criminal Procedure Code, to call for the records pertaining to Crl.M.P.No. 3049 of 2023 in S.T.C.No.123 of 2022 dated 04.10.2023 on the file of the District Munsif Cum Judicial Magistrate, Thirumayam and set aside the same by allowing this Criminal Revision Petition.

For Petitioner : Mr.A.Arul Jenifer,
for KBS Law Office

For Respondents : Mr.B.Thanga Aravindh,
Government Advocate(Crl.Side)
for R18
: Mr.A.Mohan,
for R1 to R8, R10, R11, R13 to R17
: No appearance for R9 & R12



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ORDER

The petitioner is the defacto complainant in S.T.C.No. 123 of 2022 on the file of the Learned District Munsif Cum Judicial Magistrate, Thirumayam and he has filed this revision challenging the dismissal of his prayer to conduct the further investigation in Crime No. 430 of 2021 on the file of the 18th respondent police by the impugned order dated 14.10.2023 in Cr.M.P. (MD).No. 3049 of 2023.

2. The petitioner married the accused No.1 in S.T.C.No. 123 of 2022 on 11.11.2018. Thereafter, there was some matrimonial discord. Hence, he initiated divorce proceedings and also the accused No.1 initiated proceedings of restitution of conjugal rights. Pending the same the respondents No. 1 to 17 herein and other accused is said to have assaulted the petitioner on 28.06.2021. They were said to have reached the house of the petitioner in the car and unlawfully assembled in front of the house of the petitioner and criminally trespassed into the house and criminally intimidated the petitioner and assaulted him. Therefore, he made a complaint before the 18th respondent police and there was no action and hence he filed the petition under section 156 (3) of Cr.P.C. before the Learned District Munsif Cum



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Judicial Magistrate, Thirumayam and the same was allowed with direction to conduct enquiry and thereafter the FIR was registered in Crime No. 430 of 2021 against the various accused and final report was filed deleting number of accused. The petitioner filed the protest petition and the same was dismissed. Thereafter, the trial was conducted and the trial was at the stage of the argument. All the prosecution witnesses were examined and questioning under section 313 of Cr.P.C. was also completed and the case was posted for the argument. At this stage, the petitioner filed the Crl.M.P.(MD).No. 3049 of 2023 under section 173 (8) of Cr.P.C. to conduct further investigation. The same was dismissed by the Learned Trial Judge challenging the same the petitioner filed this petition.

3. The Learned counsel for the petitioner submitted that the final report was filed without seizing the car in which the accused were said to have visited the occurrence place. Therefore, the investigation was not fair and hence he seeks for further investigation. He relied the judgment of the Hon'ble Supreme Court reported in 2023 Live Law (SC) 136, 2023 Live Law (SC) 365.



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4. The Learned counsel for the respondents 1 to 17 submitted that the final report was filed and the protest petition also was filed and the same was dismissed. After dismissal of protest petition trial was commenced and all the witnesses were examined and the case was posted for the argument. At this stage, in order to prolong the hearing of the case and to cause trouble to the respondents, filed this frivolous petition and the Learned Trial Judge correctly dismissed the same. The Learned counsel further submitted that the vehicle number was not disclosed in the bleated complaint and also petition filed under section 156 (3) of Cr.P.C. and furnishing the vehicle number before this Court for the first time and seeking further investigation ought to be rejected. By filing this petition their right of speedy trial is deprived. Hence, he seeks for dismissal of this petition.

5. The Learned Government Advocate also reiterated the said submission and seeks for dismissal.

6. This Court considered rival submission and perused the records and the precedents relied upon by them.



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7. The petitioner preferred a complaint before the 18th respondent police alleging that on 28.06.2021, due to the pending matrimonial dispute between his wife and him, the respondents No. 1 to 17 herein and others trespassed into the house of the petitioner and assaulted him. In the said complaint, the vehicle number was not given. Thereafter, he preferred the petition under section 156 (3) of Cr.P.C. before the Learned District Munsif Cum Judicial Magistrate, Thirumayam, wherein also, vehicle number was not stated. The investigating agency conducted investigation and deleted number of accused and filed final report against the 17 person alone under Sections 147, 294(b), 323 and 506(i) of IPC which are only summarily triable offences. Challenging the same, he filed the protest petition. He also questioned the said non inclusion of the vehicle and deletion of other accused. The said protest petition was dismissed and thereafter the same was taken on file in S.T.C.No. 123 of 2022. All the witnesses were examined and all the respondents periodically appeared before the court for number of years and the case is posted for the argument. At this stage, the defacto complainant filed this petition under section 173 (8) of Cr.P.C. In the considerable opinion of this court, in the above narration of the facts, there is no necessity to entertain the prayer of the petitioner. Further investigation has not been ordered while filing the protest petition. The petitioner never disclosed the



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vehicle number on earlier of occasions when he had opportunity and also he has not challenged the dismissal of the protest petition and he filed the petition only at the time of the argument. By seeking the permission to conduct further investigation, he indirectly challenged the dismissal of the protest petition. Earlier the investigating agency filed the final report deleting number of accused. Now, the petition was filed to circumvent the earlier dismissal order passed the protest petition. Further, the intention of the petitioner in filing this petition at the fag end of the trial also seems to be not bonafide. In all circumstances this court is not inclined to entertain his prayer for further investigation.

8. The precedents laid by the petitioner is not applicable to the case in hand for the reason that in the judgment reported in 2023 Livelaw (SC) 365, earlier government closed the case registered under the prevention of corruption Act and thereafter CBI filed the petition under section 173 (8) of Cr.P.C. and the Hon'ble Supreme Court permitted CBI to conduct the investigation. In this case, the petitioner's protest petition had already been dismissed by the court. Thereafter he allowed the trial to continue upto the stage of the argument. In the said situation his reliance on the Hon'ble Supreme Court judgment reported in 2023 Livelaw (SC) 136 is not



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applicable. In all aspect, this court declines to entertain the revision and the prayer of the petitioner to conduct the further investigation at the stage of the argument that too after long time of the dismissal of protest petition and the examination of prosecution witnesses is misconceived one.

9. Accordingly, this Criminal Revision Petition is dismissed.
Consequently, the connected criminal miscellaneous petition is closed.

01.08.2024

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



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To

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1. The District Munsif Cum Judicial Magistrate,
Thirumayam.
2. The Inspector of Police,
Thirumayam Police Station,
Pudukkottai 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.

vsg

Predelivery order made in
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and
Crl.M.P.(MD).No.17465 of 2023

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