



Crl.O.P.(MD)No.23209 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 14.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.(MD) No.23209 of 2022

Sundarathai

... Petitioner

Vs.

1.The Superintendent of Police,
Tenkasi District.

2.The Inspector of Police,
Karivalamvanthanallur Police Station,
Tenkasi District.
(Previously Tirunelveli District).

3.The Sub-Inspector of Police,
Karivalamvanthanallur Police Station,
Tenkasi District.

4.The Inspector of Police,
CBCID Wing,
Tenkasi District.

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the entire records and set aside the final report filed by the second respondent in C.C.No.1057 of 2022, pending on the file of the learned Judicial Magistrate, Sankarankovil, Tenkasi District, filed with a deletion of two named accused persons (Somasundara Bharathi S/o.Petchimuthu and Vellathai W/o.Somasundara Bharathi) in Crime No.436 of 2020 and consequently, direct the fourth respondent to conduct re-investigation of the case in Crime No.436 of 2020 pending on



Crl.O.P.(MD)No.23209 of 2022

the file of the second respondent and further direct him to file the final report afresh as expeditiously as possible within the time stipulation as prescribed by this Court.

For petitioner : Mr.R.Anand
For Respondents : Mr.S.Manikandan
Government Advocate (Crl.side)

ORDER

This Criminal Original Petition has been filed to call for the entire records relating to the final report filed by the second respondent deleting the two accused persons, namely, Somasundara Bharathi and Vellathai, in Crime No.436 of 2020, which was taken on file in C.C.No.1057 of 2022 by the learned Judicial Magistrate, Sankarankovil, Tenkasi District, and set aside the same and consequently, direct the fourth respondent to conduct re-investigation of the case in Crime No.436 of 2020 and file a final report afresh as expeditiously as possible within a time stipulated by this Court.

2. The learned counsel appearing for the petitioner submits that the petitioner has made a complaint before the second respondent Police and the second respondent Police, after conducting investigation, has purposely filed a charge sheet deleting the name of the two main accused persons, namely, Somasundara Bharathi and Vellathai, who are the



perpetrators of the crime. Before the same was taken on file, the petitioner has approached this Court by way of CrI.O.P(MD).No.10254 of 2021 seeking transfer of investigation. On 17.08.2021, this Court, while disposing the same, has directed the second respondent to send notice to the petitioner intimating about the outcome of the final report and after receiving notice, the petitioner was also granted liberty to work out his remedy through appropriate proceedings before the appropriate forum, pursuant to which, the petitioner has filed a petition before the learned Magistrate and the second respondent was directed to conduct further investigation. However, the second respondent, without examining all the witnesses afresh, has simply copied the statements of the witnesses recorded under Section 161(3) Cr.P.C by the third respondent and filed a charge sheet without showing the said Somasundara Bharathi and his wife, Vellathai as accused persons and the learned Magistrate has also taken the same on file in C.C.No.1057 of 2022. Hence, the petitioner, having no other alternative remedy, has approached this Court.

3. However, the learned counsel appearing for the petitioner submits that it would suffice if this Court permits the petitioner to file an appropriate application under Section 319 Cr.P.C. before the trial Court.



CrI.O.P.(MD)No.23209 of 2022

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4. In view of the submission made by the learned counsel appearing for the petitioner, this Court, without interfering with the impugned final report filed by the second respondent before the learned Judicial Magistrate, Sankarankovil, Tenkasi District, which was taken on file in C.C.No.1057 of 2022, permits the petitioner to file an application under Section 319 Cr.P.C, before the trial Court during trial, if any material is available.

5. Accordingly, this Criminal Original Petition is disposed of.

14.02.2024

Index : Yes/No
Internet : Yes/No
ssb

To

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Cr1.O.P.(MD)No.23209 of 2022

4.The Inspector of Police,
CBCID Wing,
Tenkasi District.

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



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Crl.O.P.(MD)No.23209 of 2022

M.DHANDAPANI. J.

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Crl.O.P.(MD)No.23209 of 2022

14.02.2024