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Crl.R.C.No.158 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 14.02.2025

Coram:

THE HONOURABLE MR.JUSTICE **P.VELMURUGAN**

Crl.R.C.No.158 of 2025

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S.Satheesh

.. Petitioner

Vs.

State Through
The Assistant Commissioner of Police,
Thiyagaraya Nagar Range,
T.Nagar, Chennai - 600 017.
Crime No.408 of 2019)

.. Respondent

Criminal Revision Case filed under Section 438 read with Section 442 of the BNSS, 2023, to call for the records in Crl.M.SR.No.14448 of 2024, dated 22.04.2024 on the file of the learned II Metropolitan Magistrate, Egmore, Chennai and allow the revision and thereby set-aside the order Crl.M.P.SR.No.14448 of 2024, dated 22.04.2024, on the file of the learned II Metropolitan Magistrate, Egmore, Chennai.

For Petitioner : Mr.R.Ganesh umar

For Respondent: Mr.S.Sugendran
Additional Public Prosecutor



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ORDER

Heard the learned counsel on either side and perused the materials available on record.

2. This Criminal Revision Case has been filed by the petitioner challenging the order passed by the learned II Metropolitan Magistrate, dismissing the protest petition filed by the petitioner in Crl.M.P.SR.No.14448 of 2024, dated 22.04.2024.

3. The case of the petitioner is that the petitioner, a physical education teacher, was allegedly assaulted by police officers at the D-1 Triplicane Police Station, along with his student, Mr.Nithin, and his brother. On 31.12.2018, the petitioner had just returned to Chennai after a trip and called his student, Nithin, to pick him up from the airport. As they were travelling near Wallajah Road, Nithin was mistaken by the police officers for recording their actions and was assaulted with a police lathi. He was subsequently taken to the police station. Upon hearing of the incident, the petitioner and his brother arrived at the police station, where they found Nithin injured. Allegedly, they were also subjected to further assault by the police officers, which included being beaten with police lathis, PVC pipes, and even kicked with boots. The petitioner, his brother, and Nithin sustained various injuries during the assault. Despite the gravity of the situation, no FIR was initially registered



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at the Triplicane Police Station. The petitioner, dissatisfied with the lack of action from the police, approached the Metropolitan Magistrate under Section 156(3) Cr.P.C., which led to the registration of an FIR. Despite the FIR being registered, the petitioner faced delays and dissatisfaction with the progress of the investigation, as the accused persons happened to be police officials at the D-1 Triplicane Police Station. Hence, the petitioner approached this Court by filing Crl.O.P.No.23625 of 2019 to transfer the investigating agency. The learned Judge, vide order dated 16.09.2019, transferred the case from the Inspector of Police, D1 Triplicane Police Station, to the Assistant Commissioner of Police, T. Nagar Police Station, Chennai.

4. After investigation, the Assistant Commissioner of Police, T. Nagar Police Station, concluded the case as a "Mistake of Fact." The petitioner, believing that the investigation was flawed and that there was an attempt to protect the police officers involved, filed a protest petition against the closure of the case. The learned II Metropolitan Magistrate dismissed the protest petition on the grounds that the Magistrate did not have jurisdiction to direct the Assistant Commissioner of Police to investigate further and that no proper sanction had been obtained to prosecute the police officers involved. Challenging the said order, the petitioner is before this Court by way of this Revision Petition.



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5. The main contention of the learned counsel for the petitioner is that the learned Magistrate's order dismissing the protest petition was legally incorrect and based on flawed reasoning. The petitioner submits that the Magistrate failed to evaluate the evidence properly and concluded prematurely that there was no jurisdiction to direct the Assistant Commissioner of Police to conduct further investigation. The petitioner further contends that this Court had already transferred the investigation to the Assistant Commissioner of Police by order dated 16.09.2019 in Crl.O.P.No.23625 of 2019, and therefore, the learned Magistrate should have directed further investigation or reviewed the findings instead of dismissing the protest petition. The petitioner also argues that the dismissal of the protest petition effectively protects the accused police officers and shields them from accountability.

6. Originally, the case was registered before the Inspector of Police, Triplicane Police Station, in Crime No.408 of 2019. Pending the investigation, the petitioner filed Crl.O.P.No.23625 of 2019, and this Court, vide order dated 16.09.2019, transferred the investigation from the Triplicane Police Station to the Assistant Commissioner of Police, T.Nagar Police Station. The Assistant Commissioner of Police conducted the investigation and filed a negative report. Challenging this report, the petitioner filed a protest petition. In the protest petition, the learned Magistrate, without going into the merits of the case and without ascertaining whether prima



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facie materials existed, dismissed the petition on the ground that the Magistrate had no locus standi to direct the Assistant Commissioner of Police by judicial order.

However, it is pertinent to point out that once this Court had already directed the respondent to conduct the investigation vide order dated 16.09.2019 in Crl.O.P.No.23625 of 2019, and the respondent had also filed the negative report, the learned Magistrate should have, in accordance with the law, reviewed whether the negative report filed by the respondent was in order and examined whether the investigation was fair. If the learned Magistrate found that there were prima facie materials, the protest petition should have been allowed. If not, after inquiry, it should have been dismissed. However, instead of doing this, the learned Magistrate simply dismissed the petition on the basis of lack of jurisdiction, which goes against the settled proposition of law.

7. Normally, a complaint would be given to the jurisdictional police station, and the Inspector of Police of the particular police station, who is the investigating officer, would investigate the matter. However, in this case, the petitioner approached this Court by way of Crl.O.P.No.23625 of 2019, and this Court transferred the investigation from the Inspector of Police to the respondent. Since the respondent is now the investigating officer, the learned Magistrate had the jurisdiction to assess the veracity of the final report filed by the respondent. Therefore, the learned Magistrate had the jurisdiction to direct the investigating officer, i.e., the respondent, to proceed with further investigation if necessary.



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However, the learned Magistrate dismissed the protest petition on the ground of lack of locus standi, without going into the veracity of the closure report filed by the respondent, which warrants the interference of this Court.

8. Under these circumstances, the order passed by the learned II Metropolitan Magistrate, Egmore, Chennai, is liable to be set aside, and accordingly, it is set aside. The matter is remitted back to the learned II Metropolitan Magistrate, Egmore, to conduct an inquiry on the protest petition and dispose of the same on merits and in accordance with the law.

9. With the above observations, this Criminal Revision Case is disposed of.

14.02.2025

Index : Yes/No
Neutral Citation Case : Yes/No
Speaking Order : Yes/No

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Note: The Registrar General is directed to impart training to the concerned learned II Metropolitan Magistrate, Egmore, Chennai, in the Judicial Academy, who passed the order impugned in this revision.



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To

- 1.The II Metropolitan Magistrate,
Egmore, Chennai.
- 2.The Assistant Commissioner of Police,
Thiyagaraya Nagar Range,
T.Nagar, Chennai - 600 017.
- 3.The Registrar General, Madras High Court, Chennai.
- 4.The Public Prosecutor, Madras High Court, Chennai.



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P.VELMURUGAN, J

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