



Crl.R.C.(MD)No.84 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 03.03.2025

Pronounced on : 21.03.2025

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.84 of 2024
and
Crl.M.P.(MD)No.1096 of 2024

Sundar

... Petitioner

Vs.

State rep. by
The Inspector of Police,
District Crime Branch,
Theni, Theni District.
(Crime No.7 of 2021)

... Respondent

Prayer : This Criminal Revision Case filed under Sections 397 r/w 401 Cr.P.C., to call for the records pertaining to the judgment dated 27.10.2023 passed in Crl.M.P.No.7630 of 2021 in C.C.No.139 of 2021 on the file of the Judicial Magistrate Court, Theni, Theni District and set aside the same.

For Petitioner : Mr.S.Saravana Kumar

For Respondent : Mr.B.Thanga Aravindh
Government Advocate (Crl. Side)



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ORDER

The Criminal Revision is directed against the order passed in Crl.M.P.No.7630 of 2021 in C.C.No.139 of 2021 dated 27.10.2023 on the file of the Court of Judicial Magistrate, Theni, dismissing the petition for further investigation filed under Section 173(8) of the Code of Criminal Procedure.

2. On the basis of the complaint lodged by one Karuppasamy, FIR came to be registered in Crime No.7 of 2021 against the petitioner for the alleged offences under Sections 420 and 506(1) IPC and after completing the investigation, the respondent has laid the final report against the petitioner for the offences under Sections 420 and 506(1) IPC and the case was taken on file in C.C.No.139 of 2021 on the file of the Judicial Magistrate Court, Theni.

3. The case of the defacto complainant is that the defacto complainant is working as a teacher in Kallar Government Primary School at Poothipuram Village, Theni District, that the defacto complainant and

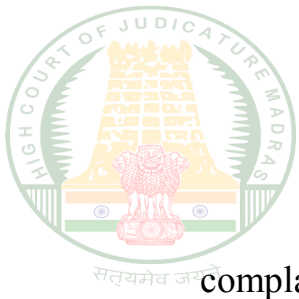


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the petitioner had acquaintance for the past more than 10 years, that the petitioner approached the defacto complainant and informed him that he will get job for his wife, if he arranged a sum of Rs.70 lakhs, that the defacto complainant believing the words of the petitioner has given Rs.70 lakhs to the petitioner on 24.01.2019, for which, the petitioner has issued a cheque drawn on Canara Bank, Kodangipatti Branch in favour of one Mrs.Prabha, who is the aunty of the defacto complainant's wife, that the petitioner has given evasive reply to get job for the defacto complainant's wife, that the petitioner again approached the defacto complainant and requested a hand loan of Rs.50 lakhs to start petrol bunk agreeing to repay the same within 6 months, that the defacto complainant has arranged the said amount with the help of his co-teachers and gave to the petitioner, that the petitioner has not repaid both the amounts despite repeated demands, that when the same was demanded again, the petitioner caused criminal intimidation and that the complaint given by the defacto complainant came to be registered.

4. The case of the petitioner is that there is absolutely no *prima facie* case made out against the petitioner, that the complaint of the defacto



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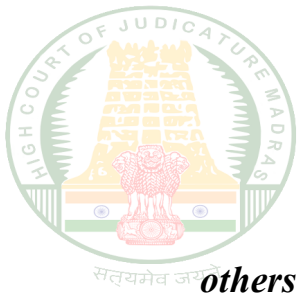
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complainant is concocted cock and bull story, that the High Court in the bail order has raised doubt over the undertaking affidavit alleged to have been given by the petitioner, that the respondent has not conducted any investigation in that regard and that therefore the petitioner was constrained to file the present petition under Section 173(8) Cr.P.C. for further investigation.

5. The learned Magistrate, by mainly observing that the petition for further investigation which came to be filed after framing of charges and when the case was pending for examination of witnesses, cannot be entertained, dismissed the petition.

6. The learned counsel appearing for the petitioner would submit that there is absolutely no legal bar or prohibition for filing the petition for further investigation subsequent to the framing of charges and that the learned Magistrate, without considering the legal position, dismissed the petition mechanically without going into the merits of the case.

7. The Hon'ble Supreme Court recently in ***Rampal Gautam and***



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others Vs. The State by Mahadevapura Police Station, Bengaluru and

another reported in ***2025 LiveLaw (SC) 164*** has specifically held that further investigation can be ordered even after the charge sheet has been filed and trial was commenced and the relevant passage is extracted hereunder:-

“12. At the outset, we may record that a direction to conduct further investigation even after filing of the chargesheet and commencement of the trial is permissible in law as has been held by a catena of judgments of this Court. Reference in this regard may be made to Hasanbhai Valibhai Qureshi v. State of Gujarat and Others ((2004) 5 SCC 347) wherein, this Court observed that the prime consideration for directing further investigation is to arrive at the truth and to do real substantial justice. The Court further observed that further investigation and re-investigation stand altogether on a different footing. Even de hors any direction from the Court, it is open to the police to conduct a proper investigation notwithstanding the fact that the Court has already taken cognizance on the strength of a police report submitted earlier. However, a caveat was added that before directing such investigation, the Court or the concerned police officer has to apply mind to the material available on record and arrive at a satisfaction that investigation of such allegations is



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necessary for the just decision of the case.”

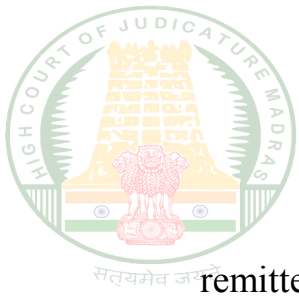
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8. Considering the settled legal position above referred, the only reason assigned for dismissing the petition filed under Section 173(8) Cr.P.C. that charges have already been framed and that since the petition came to be filed after framing of charges, the same cannot be held maintainable, cannot legally be sustained.

9. As already pointed out, the learned Magistrate has not considered the merits of the claim but only on the ground of maintainability, the petition was ordered to be dismissed.

10. Considering the above, this Court is of the view that the matter is to be remitted back to the learned Magistrate to consider the petition filed for further investigation afresh and decide the same on merits and in accordance with law.

11. In the result, this Criminal Revision Case stands allowed and the impugned order dated 27.09.2023 is hereby set aside. The matter is



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remitted back to the learned Judicial Magistrate, Theni directing him to restore the petition filed under Section 173(8) Cr.P.C. to their file and conduct enquiry and pass orders on merits and in accordance with law. Consequently, connected Miscellaneous Petition is closed. No costs.

21.03.2025

NCC :yes/No
Index :yes/No
Internet:yes/No
csm

To

1. The Judicial Magistrate,
Theni.
- 2.The Inspector of Police,
District Crime Branch,
Theni, Theni District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

csn

Pre-Delivery Order made in
Crl.R.C.(MD)No.84 of 2024
and
Crl.M.P.(MD)No.1096 of 2024

Dated : 21.03.2025