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Crl.R.C(MD)No.1231 of 2024



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 29.01.2025

Pronounced on : 07.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

**Crl.R.C(MD)No.1231 of 2024
and
Crl.M.P(MD)No.12750 of 2024**

Nagavalli

... Petitioner

Vs.

1.The Inspector of Police,
All Women Police Station,
Lalgudi,
Trichy District.
(Crime No.11 of 2020)

2.Kasinathan

... Respondents

(R2 is *suo motu* impleaded as per order of the Court,
dated 04.07.2024 in Crl.M.P(MD)No.6721 of 2024 in
Crl.R.C(MD)SR.No.17167 of 2024 by KKRKJ)

PRAYER : This Criminal Revision Case has been filed under Sections
438 r/w 442 of BNSS, to call for the records of the order, dated
28.04.2022 passed in Cr.M.P.No.3503 of 2021 on the file of the Judicial
Magistrate, Lalgudi (S.C.No.253 of 2021 on the file of the Sessions
Judge, Mahila Court, Trichy) and set aside the same.

For Petitioner	: Mr.T.Lenin Kumar
For R1	: Mr.M.Vaikkam Karunanithi Government Advocate (Crl.side)
For R2	: Mr.R.Ilayaraja



ORDER

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This Criminal Revision Case is filed against the order, dated 28.04.2022 passed in Cr.M.P.No.3503 of 2021 by the learned Judicial Magistrate, Lalgudi (S.C.No.253 of 2021 on the file of the learned Sessions Judge, Mahila Court, Trichy) and to set aside the same and pass such further order.

2.The brief facts of the case:

The revision petitioner is the defacto complainant and she lodged a complaint against the second respondent before the first respondent police. A case in Crime No.11 of 2020 was registered U/s.417, 420 @ 376 of IPC and after investigation, charge sheet was laid before the Judicial Magistrate Court, Lalgudi and the case was taken on file as PRC.No.08/2020 and the same was committed to Sessions Court, Trichy U/s.209 of Cr.P.C, after furnishing copies of documents to the second respondent U/s.207 of Cr.PC. The case is now pending as S.C.No.253 of 2021 on the file of the Sessions Judge, Mahila Court, Trichy. Whiles, the petitioner filed the petition U/s.173(8) of Cr.P.C. before the Judicial Magistrate Court, Lalgudi, for further investigation and the said petition was dismissed on 28.04.2022.



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3. Aggrieved by the order of dismissal, the petitioner has come forward with this present criminal revision case.

4. The accused has been impleaded as the second respondent in this criminal revision case.

5. Heard the learned counsel appearing for the petitioner, the learned Government Advocate (Criminal Side) appearing for the first respondent and also the learned counsel for the second respondent. Perused the records in this Criminal Revision Case.

6. The learned counsel appearing for the revision petitioner has argued that during the course of investigation, the petitioner produced the electronic evidence before the investigating officer, but the investigating officer has not taken steps upon the same U/s.65B of Evidence Act and laid charge sheet. Later, the petitioner came to know about the same, she has filed the petition U/s.173(8) of Cr.P.C. for further investigation. The learned Judicial Magistrate failed to consider the application and kept the same idle along with case papers for more than 1½ years. Thereafter, the learned Judicial Magistrate took the petition on file and



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dismissed the said petition on the ground that the case was committed to the Sessions Court and the committal Court has no power after passing the committal order. The petitioner, who is the victim in this case, has all fundamental rights of fair investigation and fair trial. Hence, there is no impediment in ordering further investigation after final report was filed and taking on cognizance by the Sessions Court after committal. Therefore, this criminal revision case may be allowed. In support of his argument, the learned counsel has relied on the decision of the **Hon'ble Supreme Court** reported in **2023 Live Law (SC) 136 (Anant Thanur Karmuse vs. The State of Maharashtra & Ors.)**

7. The learned Government Advocate (Criminal Side) appearing for the first respondent has objected the criminal revision case and submitted that after committal, the case was taken on cognizance as S.C.No.253 of 2021 by the Mahila Court, Trichy and charges were also framed against the accused. Therefore, at this stage, further investigation cannot be ordered.

8. The learned counsel for the second respondent has placed arguments that in this case, the charge has been framed against the second respondent by the Sessions Judge, Mahila Court, Trichy and



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hence, the learned Judicial Magistrate has rightly dismissed the petition on the ground that once PRC case was committed and the case was taken on cognizance by the Sessions Court, the Judicial Magistrate has no power to order further investigation. In support of his arguments, the learned counsel for the second respondent has placed reliance on the order of the **Hon'ble High Court of Allahabad** passed in **Crl.Misc.W.P.No.20322 of 2011, dated 14.05.2012 (Nitin Kohali vs. State of U.P. & Another)** and order of the **Hon'ble High Court of Kerala at Ernakulam** passed in **O.P.(Crl)No.498 of 2019, dated 17.12.2019 (Santha vs. State of Kerala).**

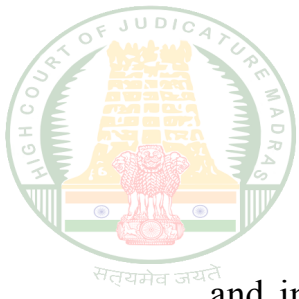
9. On hearing rival submission of both sides, it is clear that on the basis of the complaint lodged by the petitioner, the first respondent police has registered a case in Crime No.11 of 2020 against the second respondent U/s.417, 420 of IPC and after investigation, the final report was laid U/s.417, 420 @ 376 of IPC against the second respondent. It is admitted facts that the charge sheet was taken on file as PRC.No.8/2020 U/s.376(1) of IPC by the learned Judicial Magistrate, Lalgudi and after furnishing copies U/s.207 of IPC, the case was committed to the Sessions Court. It is also admitted that the Mahila Court, Trichy has taken on cognizance as S.C.No.253 of 2021. It is stated that the charge has been



framed by the Mahila Court, Trichy against the second respondent on 03.03.2022.

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10. Now, the petitioner states that she has also produced electronic evidence before the Investigating Officer, who has not taken steps on the said evidence and laid a charge sheet without considering the same, so the petitioner has filed the petition U/s.173(8) of Cr.P.C. for further investigation. The first respondent's side has not specifically denied the version of the petitioner regarding the production of electronic evidence. Both side citations were carefully perused. It is a settled position that the victim has a fundamental right of fair investigation. After taking into consideration the various decisions, the Hon'ble Supreme Court has held that mere filing of the charge sheet and framing of charges cannot be an impediment in ordering further investigation, if the facts so warrant, as per the decision rightly relied on the by the petitioner's side. It is not disputed that the petitioner has filed the petition U/s.173(8) of Cr.P.C. before the committal Court. Now, the case is pending as S.C.No.253 of 2021 on the file of the Mahila Court, Trichy. Even as per the citation relied on by the second respondent, the victim can approach the appropriate Court and can seek for further investigation.



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11. Therefore, considering the facts and circumstances of the case and in view of the rulings of the Hon'ble Supreme Court (supra), this Court is of the opinion that the petition must be heard and to be disposed on merits and the dismissal of the petition by the learned Judicial Magistrate on the ground that the case was committed to Sessions Court is not sustainable. However, since it is now admitted the case is pending before the Sessions Court, Trichy the petitioner can approach that Court.

12. Thus, this Criminal Revision Case is allowed. The order, dated 28.04.2022 passed in Cr.M.P.No.3503 of 2021 by the learned Judicial Magistrate, Lalgudi, is set aside. The petition in Cr.M.P.No.3503 of 2021 on the file of Judicial Magistrate Court, Lalgudi, is remanded to the Mahila Court, Trichy, for disposal on merits according to law within a period of three months from the date of receipt of a copy of this order. Consequently, the connected Miscellaneous Petition is closed.

07.03.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
VSD



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To

- 1.The Sessions Judge, Mahila Court,
Trichy.
- 2.The Judicial Magistrate,
Lalgudi.
- 3.The Inspector of Police,
All Women Police Station,
Lalgudi, Trichy District.
(Crime No.11 of 2020)
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.VADAMALAI, J.

VSD

Pre - Delivery Order made in
Crl.R.C(MD)No.1231 of 2024
and
Crl.M.P(MD)No.12750 of 2024

07.03.2025