

Crl.O.P.(MD)No.768 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 18.11.2024

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD) No.768 of 2023

P.Venkatesan

... Petitioner

Vs.

- 1.The Superintendent of Police,
Trichy District.
- 2.The Deputy Superintendent of Police,
Thiruverumbur, Trichy District.
- 3.The Inspector of Police,
Thuvakudy Police Station,
Trichy District.
- 4.Mrs.Deepa
Sub-Inspector of Police
(Q Branch), Trichy District.
- 5.Selvakumar
- 6.Vijayarani
(R5 and R6 are sup motu impleaded as
per order of this Court dated 25.04.2023)

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records of the final report in C.C.No.346 of 2018 on the file of the Judicial Magistrate No.VI, Trichy

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and set aside the same and consequently issue direction to transfer the investigation herein to CBCID and file final report afresh.

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For Petitioner : Mr.G.Karuppasamy Pandian
for Mr.Jenefer Bibin
For Respondent : Mr.B.Thanga Aravindh
Government Advocate (Crl. Side)
for R1 to R3

ORDER

This petition has been filed challenging the proceedings in C.C.No.346 of 2018 on the file of the learned Judicial Magistrate No.VI, Trichy, and for a consequential direction to transfer the investigation to CBCID in order to conduct a *de novo* investigation and to file a final report.

2.Heard Mr.G.Karuppasamy Pandian, learned counsel for the petitioner and Mr.B.Thanga Aravindh, learned Government Advocate appearing on behalf of respondents 1 to 3.

3.The petitioner is the defacto complainant. Based on the complaint given by the petitioner, a case was registered in the third



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respondent police station on 20.09.2017 against A1 to A3 in Crime No.

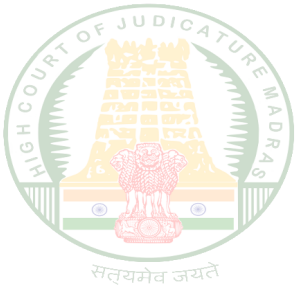
355 of 2017 for offences under Sections 294(b), 323 and 506(ii) of IPC.

4.The petitioner had a grievance right from the beginning that the investigation was not properly conducted. However, the police report came to be filed before the Court below and the same was taken on file in C.C.No.346 of 2018. Cognizance was taken for offences under Sections 294(b), 323 and 506(ii) of IPC. The witnesses were also examined and ultimately, the investigation officer was examined as P.W.

10. She stated in the chief examination as follows:

“முதல் விசாரணை (அரசு தரப்பில்)

நான் தற்போது திருச்சி. Q Branch CID பிரிவில் உதவி ஆய்வாளராக பணிபுரிந்து வருகிறேன். கடந்த 2017ம் வருடம் அக்டோபர் மாதம் துவாக்குடி காவல் நிலையத்தில் உதவி ஆய்வாளராக பணிபுரிந்தேன். அந்த காவல் நிலையத்தில் எனக்கு முன்பு திருமதி. நாகவள்ளி என்பவர் உதவி ஆய்வாளராக பணிபுரிந்து வந்தார். அவர் பணி மாறுதல் பெற்று சென்றதால் நான் அங்கு உதவி ஆய்வாளராக பணிமாறுதல் பெற்று சேர்ந்தேன். துவாக்குடி காவல் நிலைய கு.எண். 355/17 ச/பி 294(பி),323,506(2) இதச பிரிவுகளின்



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கீழான வழக்கில் நான் புலன் விசாரணை எதுவும் செய்யவில்லை. இந்த வழக்கில் சாட்சிகள் பழனிமாணிக்கம் மற்றும் அரசு மருத்துவர் திரு ரமேஷ் ஆகியோர்களை நான் விசாரித்து கு.வி.மு.ச பிரிவு 161 (3) வாக்குமூலம் பெற்றதாகவும், அந்த வாக்குமூலங்களில் நான் கையொப்பங்கள் இட்டதாகவும் உள்ளது. ஆனால் என்னிடம் காட்டப்படும் மேற்படி வாக்குமூலங்களில் உள்ள கையொப்பங்கள் என்னுடையது அல்ல. நான் அந்த சாட்சிகளை விசாரிக்கவில்லை. அதைபோல் என்னிடம் காட்டப்படும் குற்ற இறுதி அறிக்கை சாட்சி பட்டியல் மற்றும் வழக்கு ஆவணங்களின் பட்டியல் ஆகியவற்றில் உள்ள கையொப்பங்களும் என்னுடையது. அல்ல. அந்த நேரத்தில் துவாக்குடி காவல் நிலையத்தில் இருந்து நீதிமன்ற அலுவல் பார்த்து வந்த போலிசார் யாரேனும் எனது கையெழுத்து போல் போலியாக கையொப்பம் செய்து கொடுத்து இருக்கலாம்.”

5.After the examination of the investigation officer, the petitioner found that the entire case is a farce and therefore approached this Court by filing the present petition to set aside the final report and to



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order for a *de novo* investigation.

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6.This Court wanted to satisfy itself as to whether P.W.10, in fact, made such a deposition before the Court below and therefore, P.W.10 was summoned by this Court. The police officer appeared on 25.04.2023 and this Court passed the following order:

“The third respondent, namely, Deepa, who is the Investigating Officer, is present before this Court and she has stated that she was working in the third respondent police station at the relevant point of time. She did not investigate the matter and filed the final report before the concerned Court. She further stated that after receiving the summon from the concerned Court only, she knows the entire facts. After receiving summons she has appeared before the trial Court and she has stated that her signature was not available in the final report and also in the statement of witnesses. 2. Selvakumar, S/o.Gunasekaran, 235, Bharathiyar Street, Bell Nagar, Thuvakudi, Trichy-15 and Vijayarani, Gunasekaran, 235, Bharathiyar Street, Bell



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Nagar, Thuvakudi, Trichy-15 are suo motu impleaded as respondents 5 and 6 in this matter. Registry is directed to issue notice to the newly impleaded respondents 5 and 6. 3. Post the matter on 16.06.2023.”

7.The case in hand is quite unprecedented where the investigation officer gets into the witness box and states that she has not conducted the investigation and that some one has forged her signature in the final report. This only means that the investigation has not taken place in this case and all the so called statements have been fabricated and the entire criminal proceedings has become farcical. The deposition of investigation officer was once again reiterated when the investigation officer repeated the same fact before this Court also.

8.The power of this Court to order for a reinvestigation is now too well settled with a caveat that such power should not be exercised in a casual manner and only in very rare cases, *de novo* investigation can be ordered. This is in view of the fact that *de novo* investigation completely wipes off the earlier investigation and report



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that is filed after the completion of the investigation supplants the earlier report.

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9.The case in hand requires such reinvestigation to be ordered by this Court. Such reinvestigation should not confine itself to the issue involved in the case but also to ascertain as to who prepared the earlier police report and who had forged the signature of the so called investigation officer. This is a serious issue which must also be investigated in the course of reinvestigation. If the truth comes to light, independent proceedings must be initiated in that regard also.

10.In the light of the above discussion, the proceedings in C.C.No.346 of 2018 on the file of the learned Judicial Magistrate No.VI, Trichy, is hereby quashed. The investigation is transferred from the file of the third respondent, namely, the Inspector of Police, Thuvakudi Police Station, Trichy District, to the file of CBCID. The third respondent shall hand over the entire case diary to the Additional Director General of Police, CBCID, Chennai, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the



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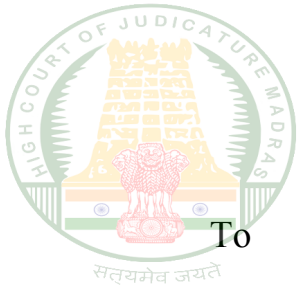
same, the Additional Director General of Police, CBCID, Chennai, shall nominate an Officer at Tiruchirappalli and he shall be directed to conduct the reinvestigation in terms of the observations made in this order and a final report shall be filed within a period of three months thereafter. After the filing of the final report, the trial Court shall proceed further with the case and dispose of the case as expeditiously as possible.

11. In the result, this Criminal Original Petition is allowed in the above terms.

18.11.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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Note: A copy of the order shall be marked to Additional Director General of Police, CBCID, Chennai.



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To

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1. Additional Director General of Police, CBCID, Chennai.
2. The Superintendent of Police,
Trichy District.
2. The Deputy Superintendent of Police,
Thiruverumbur, Trichy District.
3. The Inspector of Police,
Thuvakudy Police Station,
Trichy District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court.



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N.ANAND VENKATESH,J.

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