



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Criminal Original Jurisdiction

Friday, the Twenty Ninth day of April Two Thousand and Twenty Two

WEB COPY

PRESENT

The Hon`ble Mr.Justice G.R.SWAMINATHAN

CRL OP(MD). No.20359 of 2021

R.Rajesh Kanna
S/o. Ramadoss No.15a/55. 2nd Cross Street
Annapparaja Kalyana Mahal Road Forest Road
Theni District-625 531.

... Petitioner/De-facto Complainant

Vs

The Inspector of Police
District Crime Branch Police Station Theni
District Theni. Cr.No. 12 of 2021.

... Respondent Complainant

Prayer :-

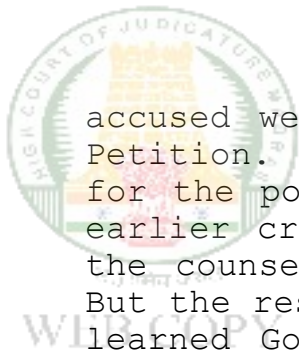
This Criminal Original Petition filed under Section 482 of Cr.P.C to direct the Respondent/Complainant to file the final report in Cr.No.12 of 2021 dt.11.10.2021 on the file of the Respondent/Complainant.

ORDER:- This Original Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Thiru.A.Jeyaram, Advocate for the Petitioner and of Thiru..M.Sakthi Kumar, Government Advocate (Crl), for the respondent, this Court made the following order:

Rajesh Kanna is the defacto complainant in Crime No.12 of 2021. Govindaraj and two others were figuring as accused in the said case.

2. The accused filed Crl.O.P.(MD)No.20190 of 2021 for quashing the FIR. On 17.12.2021, I granted interim order by recording the undertaking of the learned counsel for the accused that they would deposit the entire advance amount of Rs.20,00,000/- to the credit of O.S.No.19 of 2021 on the file of the Principal District Court, Theni. After recording such undertaking, I granted interim order. Even before the said date, Crl.O.P.(MD)No.20359 of 2021 was filed

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accused were not shown as parties in the second Criminal Original Petition. The learned Government Advocate (crl.side) who appeared for the police was not the Government Advocate who appeared in the earlier criminal original petition. Thus, neither the parties nor the counsel informed me about the grant of interim order earlier. But the respondent police in all fairness should have instructed the learned Government Advocate (crl.side) about the grant of interim order. Probably because of some communication gap or whatever reasons, they chose to remain silent.

3. Without being aware of my earlier interim order, I allowed Crl.O.P.(MD)No.20359 of 2021 on 21.12.2021 and directed filing final report. The police formally filed the final report and it was taken on file as C.C.No.47 of 2022 on the file of the Judicial Magistrate, Theni. After summons were issued, the accused filed Cont.P.(MD)No.675 of 2022. Only thereafter, these facts came to light. Since without being appraised of the facts, I had passed an order dated 21.12.2021, in conflict with the earlier interim order dated 17.12.2021.

4. In the interest of justice, I recall the order dated 21.12.2021 made in Crl.O.P.(MD)No.20359 of 2021. Registry is directed to post Crl.O.P.(MD)No.20359 of 2021 along with Crl.O.P.(MD)No.20190 of 2021 on 13.06.2022. Since the filing of the charge sheet as well as the order taking cognizance are pursuant to the direction given in Crl.O.P.(MD)No.20359 of 2021, inasmuch as the same has been recalled today, all the consequential proceedings are quashed. I make it clear that setting aside of the final report as well as the order taking cognizance is only because of the recall order passed now. I have not gone into the merits of the matter. The contentions of the defacto complainant are left fully open.

Sd/-

Assistant Registrar(CS-I)

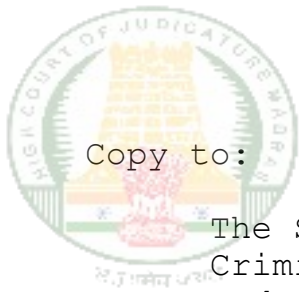
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/ /2022

Sub Assistant Registrar(CS)

To

1. The Inspector of Police
District Crime Branch Police Station Theni
District Theni. Cr.No. 12 of 2021.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai



Copy to:

The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court, Madurai (To recall the
order and post the case on 13.06.2022)

ORDER DATED : 29/04/2022

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ORDER

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CRL OP(MD) . No.20359 of 2021

Giving direction and etc.
as stated within.

ks (CO)
TR(02.05.2022) 3P 4C