

Anbalagan Vs. State by, Inspector of Police, Nilgiris District

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Court : Chennai

Decided On : Sep-23-2016

Judge : P.N. Prakash

Appeal No. : Crl.O.P.No. 20750 of 2016

Appellant : Anbalagan

Respondent : State by, Inspector of Police, Nilgiris District

Judgement :

(Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to direct the trial Court namely Judicial Magistrate, Coonoor to pass an order, directing further investigation based on the petition filed by the petitioner during March 2008.)

1. This petition has been filed to direct the trial Court, namely the Judicial Magistrate, Coonoor to pass an order directing further investigation based on the petition filed by the petitioner during March 2008.
2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the State.
3. On the complaint lodged by the petitioner, the respondent police registered a case in Cr.No.422 of 2003 and after completing the investigation, filed a Final Report in C.C.No.7 of 2004 before the Judicial Magistrate, Coonoor, for offences u/s 323 and 324 IPC against the class teachers of the petitioner's son, on the

allegation that they had assaulted him.

4. It is the case of the petitioner that the respondent police had conducted a very shabby investigation and they should have included higher offences. Therefore, the petitioner filed Crl.O.P.No.431 of 2005 for a direction to conduct further investigation in C.C.No.7 of 2004 and the same was disposed of by this Court on 03.02.2005, by observing as follows:

"5. It is not in dispute that a case came to be registered by the first respondent police under Sections 323 and 324 of IPC for the alleged act of the Teacher, and now, the case is also pending in the hands of the lower Court. All the above contentions put forth by the petitioner, seeking for further investigation, can be appreciated by the lower Court, where the case is pending, only after P.W.1 is examined in that Court. In such circumstances, this Court is unable to agree with the petitioner's side at this stage. However, a direction is issued to the Judicial Magistrate, Coonoor, to order further investigation of the matter, after recording the evidence of P.W.1, if he is satisfied that the circumstances warrant so. Accordingly, this criminal original petition is disposed of. Consequently, connected Crl.M.P. is closed."

5. Admittedly, the petitioner was examined as P.W.1 on 05.02.2007, 14.11.2007 and 20.02.2008. Now, the petitioner has filed a petition under Section 173 Cr.P.C. before the Judicial Magistrate, Coonoor for a direction to the respondent police to conduct further investigation in terms of his evidence in the Court as well as in terms of the order dated 03.02.2005 passed by this Court in Crl.O.P.No.431 of 2005. Aggrieved by the inaction of the Magistrate, the petitioner is before this Court.

6. Learned counsel for the petitioner reiterated that the petitioner's son was brutally attacked by his teachers and therefore, there should be a further investigation of the case.

7. Per contra, learned Additional Public Prosecutor submitted that about 26 witnesses have been examined in C.C.No.7 of 2004 including the petitioner herein, and only to keep the Damocle's sword hanging over the teachers, the

petitioner has been filing such petitions for oblique motives.

8. This Court gave its anxious consideration to the rival submissions.

9. In the order passed by this Court in Crl.O.P.No.431 of 2005 that has been extracted above, this Court has not issued any positive direction to the Judicial Magistrate, Coonoor to order further investigation of the case after the examination of P.W.1. This Court has clearly stated that, only if the Magistrate is satisfied that the case requires a further investigation, he should order. The Magistrate was aware of the order dated 03.02.2005 passed by this Court in Crl.O.P.No.431 of 2005. When the Magistrate has not ordered further investigation, it means that he is not satisfied that it should be ordered.

10. Learned Additional Public Prosecutor submits that a charge u/s 325 IPC also has been framed against the accused persons. On the facts and circumstances of the case, this Court is of the view that this is not a fit case for either ordering further investigation or directing the Magistrate to order further investigation.

Accordingly, this petition is dismissed with a direction to the Judicial Magistrate, Coonoor to complete the trial in C.C.No.7 of 2004 within a period of six months from the date of receipt of a copy of this order.

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