

**V.Rajan Vs. the State**

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**SooperKanoon Citation :** [sooperkanoon.com/920369](http://sooperkanoon.com/920369)

**Court :** Chennai

**Decided On :** Aug-03-2011

**Judge :** S.Palanivelu, J.

**Acts :** Code of Criminal Procedure (CrPC) - Section 173(8)

**Appeal No. :** Crl.RC.(MD) No.493 of 2011

**Appellant :** V.Rajan

**Respondent :** The State

**Advocate for Def. :** Mr.P.Kandasamy, Adv.

**Advocate for Pet/Ap. :** M/s.K.Baalasundharam, Adv.

**Judgement :**

1. This Criminal Revision is preferred to call for the records in Crl.M.P.No.2159 of 2007, on the file of the Judicial Magistrate Court, Melur, dated 29.05.2007 and set aside the same as illegal.

2. The petitioner is the de-facto complainant in Crime No.95 of 2006, on the file of the respondent police. The respondent police filed charge sheet referring the case as mistake of fact. Hence, the petitioner has filed an application under Section 173(8) of Cr.P.C. before the learned Judicial Magistrate, Melur, praying the court to direct further investigation by the respondent police in Crime No.95 of 2006. The

said application came to be dismissed on 29.05.2007 by the learned Judicial Magistrate, Melur. This is the order challenged before this Court.

3. Mr.K.Baalasundharam, the learned counsel for the petitioner would submit that the respondent police has not taken note of the pending civil litigations between the parties, that the Court may direct further investigation and that even after filing of the charge sheet, there is no impediment for the respondent police to request the Court for direction for further investigation.

4. In support of his contention, he placed reliance upon a decision of the Honourable Apex Court reported in 1999 Cr.L.J. 3661, (Sri Bhagwan Samardha Sreepada Vallabha Venkata Vishwandadha Maharaj v. State of A.P. and others), wherein, Their Lordships have observed as follows:

10. Power of the police to conduct further investigation, after laying final report, is recognised under Section 173(8) of the Code of Criminal Procedure. Even after the Court took cognizance of any offence on the strength of the police report first submitted, it is open to the police to conduct further investigation. This has been so stated by this Court in Ram Lal Narang v. State (Delhi Admn.), AIR 1979 SC 1791: (1979 Cril LJ 1346). The only rider provided by the aforesaid decision is that it would be desirable that the police should inform the Court and seek formal permission to make further investigation.

5. But, the further investigation cannot be ordered at the request of the de-facto complainant as per the settled position of law. In 2011 Cr.L.J. 418, (E.Jeevankumar v. State and another), I have concluded that the de-facto complainant has no locus standi to pray for further investigation on any account, after following various decisions of the Hon'ble Apex Court, since the petitioner/complainant is not competent to place a request before the Court for further investigation under Section 173(8) of Cr.P.C. The Criminal Revision is not sustainable which suffers dismissal.

In the result, the Criminal Revision Case is dismissed.