

IN THE COURT OF THE PRINCIPAL SESSIONS JUDGE,
SALEM.

(Special Court for trial of Cases under Scheduled Caste and Scheduled
Tribes (Prevention of Atrocities), Act)

Present: **Tmt.S.Sumathy, M.L.,**
Principal Sessions Judge, Salem.
(Special Judge for trial of Cases under Scheduled Caste and Scheduled
Tribes (Prevention of Atrocities), Act)

Monday, the 7th day of August, 2023

CRIMINAL MISCELLANEOUS PETITION No.997/2022
(Cr.No.145/2021 of Veeraganur PS)
(CNR.No.TNSA010015212022)

Babu (39),
S/o Paranjothi,
1st Ward, East Street,
Veeraganur Post,
Thalaivasal Taluk,
Salem District.

...Petitioner/Defacto
Complainant.

/vs/

State: The Deputy Superintendent of Police,
Attur.
(Veeraganur Police Station,
Cr.No.145/2021)

...Respondent/
Complainant.

1) Shanthi
2) Sathiyaraj
3) Tamilselvan

...Accused.

This petition is coming on 19.07.2023 for final hearing before me, in
the presence of Thiru.K.Chandrasekaran, Counsel for the petitioner/defacto
complainant and the Special Public Prosecutor for the respondent/

complainant and upon hearing both sides arguments, this Court passed the following:

ORDER

1. Order pronounced.
2. This petition was filed by the petitioner/defacto complainant to make his protest against the final Report filed by the Deputy Superintendent of Police, Attur in Cr.No.145/2021 of Veeraganur Police Station, wherein the case was referred as “Mistake of Fact”.
3. Defacto complainant present and heard the arguments of both sides and perused the records.
4. Questions:

Whether the Protest Petition is to be accepted and re-investigation is to be ordered?

5. It was argued on the side of the petitioner/defacto Complainant that on 01.05.2021 at about 7.00 p.m., there was a wordy quarrel between Priya and Shanthi's family; on hearing the same, the petitioner/defacto complainant went to Priya's house and when he intervened, Shanthi and her family members abused the petitioner/defacto complainant by caste name and assaulted him with wooden log, iron rod, hands and legs and caused fracture and grievous injuries to him and also threatened him with dire

consequences and he was hospitalized. While the petitioner/defacto complainant was in hospital, on 03.05.2021 his complaint statement was recorded by the Head Constable attached with Veeraganur Police Station, but based on the said complaint statement, there was no further action taken by the police, hence the petitioner/defacto complainant and Priya gave representation to the Inspector of Police attached with Veeraganur Police Station, the Deputy Superintendent of Police, Attur and the Superintendent of Police, Salem. Finally on 26.08.2021 the case in Cr.No.145/2021 was registered against the accused namely Shanthi, Sathiyaraj and Tamilselvan. The Investigating Officer without examining the eye witnesses to the occurrence and without conducting proper investigation has filed the Final Report in favour of the accused person, due to their dominance force and financial power. Further, considering the danger to the life and properties of the petitioner/defacto complainant by the accused, this petitioner prayed to give protection to him and to order to re-investigate the case and to take action against the accused.

6. On perusal of records, it is seen that on 03.05.2021 while the petitioner/defacto complainant was in treatment in the Government Hospital, Attur, his complaint statement was recorded by the Head Constable attached with Veeraganur Police Station and the said

complaint statement was numbered as CSR.No.68/2021. Subsequently on 26.08.2021, the First Information Report was registered by the Sub Inspector of Police attached with Veeraganur Police Station in Cr.No.145/2021.

7. On perusal of records, it is found that after completing the investigation, the final report was filed into this Court on 06.10.2021, as the case is “Mistake of Fact”.
8. The Main grievence of the petitioner/defacto complainant is that due to the dominance force and financial power of the accused, the investigation officer without examining the eye witnesses and without conducting proper investigation has filed the final report as Mistake of Fact. But on perusal of records, it is seen that the Final Report is containing the 161(3) Cr.P.C., statements of Babu, Sarojini (Priya), Baskar, Susila, Geetha, Mariammal, Papathiyammal, Jaya, Janaki, Manjula, Poongothai, Sivakami, Aathimoolam, Shajahan, Santhosh, Saravanan, Sathiyamoorthi, Tamilselvan, J.Sumathi and Thangavel.
9. After completing the investigation, the Investigation Officer, namely the Deputy Superintendent of Police, Attur had prepared the Final Report.

10. As the statements of witnesses recorded u/sec.161(3) of Cr.P.C., revealed that the petitioner/defacto complainant Babu in the night hours often used to visit the house of Priya; the petitioner/defacto complainant and Priya's brother Baskar used to consume liquor and used obscene words loudly, this caused disturbance to the neighbours and hence the neighbours complained the same to the house owner Shanthi, who cited as A-1 in this case namely Cr.No.145/2021; she in turn questioned the activities of the petitioner/defacto complainant Babu, Priya and her brother; at that time the petitioner/defacto complainant Babu, Priya and her brother abused Shanthi and assaulted her; in this regard Shanthi gave a complaint against the petitioner/defacto complainant Babu, Priya and Baskar; in the 161(3) Cr.P.C., statement of the witnesses, it has been stated that the accused in Cr.No.145/2021 did not abuse the petitioner/defacto complainant Babu by caste name and they did not assault him. Further it reveals that 161(3) Cr.P.C., statement of the petitioner/defacto complainant Babu, Priya, her brother Basker and her mother Susila was not supported by 161(3) Cr.P.C., statement of other witnesses, and hence the Investigation Officer, namely the Deputy Superintendent of Police, Attur referred the case in Cr.No.145/2021 as 'Mistake of Fact'.

11. Further the Final Report has been submitted before the District Vigilance Committee (for SC/ST Act) for approval to close the case as 'Mistake of Fact' and the District Vigilance Committee (for SC/ST Act), Salem had discussed the above Final Report and given opinion on 24.06.2022 that this case is a fit case to be referred as 'Mistake of Fact'.
12. Then the District Vigilance Committee (for SC/ST Act) headed by the District Collector, had decided to close the case as "Mistake of Fact". On that basis only, this case was closed by the investigation officer as "Mistake of Fact".
13. After receiving the Final Report and the proceedings of the District Vigilance Committee (for SC/ST Act), this Court sent notice to the petitioner/defacto complainant to file objection if any.
14. In the protest petition and in the arguments, the defacto complainant had stated the same facts. No new fact has been stated and no further evidence was produced. Hence, when there is no new facts found in the protest petition, this Court finds that the detailed investigation done by the Investigation Officer and the approval given by the District Vigilance Committee can be accepted.
15. In the result, the protest petition filed by the petitioner/defacto complainant is dismissed with liberty to the petitioner/defacto

complainant to look for the other avenues known to law. This Court accepts the Report as Mistake of Fact and assigned as Rcs.No.4/2023.

Pronounced by me in Open Court, this the 7th day of August, 2023.

Sd./S.Sumathy,
Principal Sessions Judge, Salem.
(Special Judge for trial of Cases
under Scheduled Caste and
Scheduled Tribes (Prevention of
Atrocities), Act)
07.08.2023

