
(1984) 11 MAD CK 0046
In the Madras High Court
Case No : Criminal R.C. No. 144 of 1982

Sekar	Vs	APPELLANT
State		RESPONDENT

Date of Decision : 16-11-1984

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 173

Citation : (1984) LW(Cri) 249

Hon'ble Judges : David Annoussamy, J

Bench : Single Bench

Advocate : S. Shanmugavelayutham, for the Appellant;

Judgement

David Annoussamy, J.—This is a revision by the complainant. The case of the Petitioner is as follows: He filed a complaint to the police alleging having been beaten by several accused persons and he indicated the name of one of such persons. After such complaint, the police has taken up investigation. He was sent for the examination by the doctor on 7th July, 1981 at about 8:00 P.M., and ultimately the investigating officer, submitted a charge-sheet against the accused. Thereafter, the officer in-charge of the station was transferred. The successor in office withdrew the charge sheet and later reported that there was mistake of law. The Petitioner complainant being disappointed by the turn of events, filed a petition before the learned Magistrate, seeking direction to the police to restore the charge-sheet and praying the Magistrate to take cognizance of the case and to proceed further. The learned Magistrate, by his order, dt. 5th December, 1981 dismissed the petition filed by the complainant, stating that since the matter has been referred as a mistake of law there was no necessity of calling for the charge-sheet.

2. The above order appears obviously erroneous. If there was a charge-sheet fled by the police officer u/s 173 , Code of Criminal Procedure, as the order of the Magistrate would suggest, the latter has taken cognizance of the offence and thereupon it was not open to the police officer to withdraw the charge-sheet. It is

for the Magistrate to pass such order as he deems fit in accordance with law, taking into account the steps taken by the prosecution.

3. In the result, the revision petition is allowed. The Magistrate is directed to verify from his records whether a charge-sheet had been filed upon the complaint filed by the Petitioner to the police and if so to have the charge-sheet restored and to take such further action as he deems fit in accordance with law. If the charge-sheet was not filed, the Magistrate is directed to scrutinise whether the report of mistake of law filed by the police is a proper one in the circumstances of the case and order further investigation if he deems fit. A report shall be submitted by the Magistrate about the steps taken within one month.