

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2015

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.O.P.No.19869 of 2015

Mohameed Daha Maraikayar

.. Petitioner

Vs.

1.The Superintendent of Police,
Nagur,
Nagapattinam District.

2.The State, Rep by its,
The Inspector of Police,
District Crime Branch,
Nagapattinam.

.. Respondents

Prayer : Criminal Original Petition filed under Section 482 of the Cr.P.C., praying to transfer the investigation in CC.Sr.No.1228 of 2015 from the second respondent Police to some other officers under the control of first respondent.

For Petitioner : Mr.K.Myilsamy

For Respondents : Mr.C.Emalias

Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed praying to transfer the investigation in CC.SR.No.1228 of 2015 from the file of the second respondent Police to some other officers under the control of first respondent.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents.

3. This petitioner has lodged a private complaint before the Chief Judicial Magistrate Court, Nagapattinam, making allegations against the accused, in connection with entry of names in the electoral rolls.

4. The learned Judicial Magistrate No.II, Nagapattinam, without application of mind, has referred the matter to the respondent Police under Section 156(3) Cr.P.C., without even following the procedures laid down by the Supreme Court in M/s.Priyanka Srivatsava & Another

Vs. State of U.P. & Others [2015(4) Scale 120]. The respondent Police after receiving the complaint, are not registering any case on the ground that the complaint does not disclose commission of cognizable offence for the Police to register an FIR.

5. The matters concerning electoral rolls are to be decided by the authorities appointed by the Election Commission of India and not by the local Police. Hence, the Police need not register any FIR, even though the learned Judicial Magistrate, has issued directions under Section 156(3) Cr.P.C.

6. This Criminal Original Petition is dismissed with liberty to the the petitioner to work out his remedies in a manner known to law, before the Election Authorities.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

ds
To

1.The Chief Judicial Magistrate NO.II,
Nagapattinam

2.The Superintendent of Police,
Nagur,
Nagapattinam District.

3. The Inspector of Police,
District Crime Branch,
Nagapattinam.

4.The Public Prosecutor,
High Court, Madras.

+1 cc to M/s.K.Myilsamy, Advocate sr.40676

Cr1. O.P. No.19869 of 2015

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