

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.09.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.OP.No.22565 of 2015

K.Muthuvellayan

... Petitioner

Vs

The State rep by
The Inspector of Police,
E-5, Pattinapakkam Police Station,
Chennai-28.

... Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C., praying to direct the respondent to direct the learned XXIII Metropolitan Magistrate, Saidapet, Chennai to take the unnumbered and returned private complaint dated 05.03.2015 filed by the petitioner on file and pass appropriate orders in accordance with law.

For Petitioner : Mr.R.Shanmugasundaram,
Senior Counsel for Mr.C.Paulraj

For Respondent : Mr.C.Emalias, Addl. Public Prosecutor

O R D E R

This petition has been filed to direct the learned XXIII Metropolitan Magistrate, Saidapet, Chennai to take the unnumbered and returned private complaint filed by the petitioner dated 05.03.2015.

2. Heard the learned counsel for the petitioner; learned Additional Public Prosecutor for the respondent and perused the materials placed on record.

3. It is seen that on the private complaint filed by this petitioner, the learned XXIII Metropolitan Magistrate, Saidapet has passed the following order:

"Heard, perused written arguments filed by the petitioner and other connected documents. The petitioner hereby is directed to produce the material evidence and documentary evidence to produce that the property is in exclusive possession and enjoyment to attract the offence u/s 448 IPC. Hence this petition returned accordingly. Sd/- 19.03.2015"

4. In the considered opinion of this Court, the complaint cannot be returned on the aforesaid ground. There are three options open to the learned Magistrate, when a private complaint is presented.

- (1) That he can refuse to take cognizance and pass an order giving reasons thereof.
- (2) That he can order police investigation under Section 156[3] Cr.P.C.
- (3) That he can take cognizance of the offence and proceed to record the sworn statement of the complainant and his witnesses. Thereafter, he can dismiss the complaint under Section 203 Cr.P.C. or order a police investigation under Section 202 Cr.P.C. or issue process under Section 204 Cr.P.C.

5. Under such circumstances, the petitioner is directed to re-present the complaint. On such re-representation, the learned Magistrate is directed to adopt any of the aforesaid courses open to him.

6. Learned counsel for the petitioner submits that the original complaint that was filed by the petitioner, which was returned by the learned Magistrate has been filed along with Cr1.OP.No.7693 of 2015.

7. Under such circumstances, the petitioner shall apply for the certified copy of the complaint in this Court and after obtaining the certified copy, approach the Assistant Registrar, Criminal Side for substituting the certified copy in Cr1.OP.No.7693 of 2015 and take back the original complaint for re-presenting it before the learned XXIII Metropolitan Magistrate, Saidapet.

With the above direction, this petition is closed.

Sd/-

Asst.Registrar (CO)

सत्यमेव जयते /true copy/

Sub Asst. Registrar

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To

1.The XXIII Metropolitan Magistrate,
Saidapet.

2.-do-The Chief Metropolitan Magistrate, Egmore, Chennai.

3.The Inspector of Police,

E-5, Pattinapakkam Police Station, Chennai-28.

4.The Public Prosecutor, High Court, Madras.

5.The Asst.Registrar, Cr1.Side, High Court, Madras.

+1 cc to Mr.C.Paulraj, Advocate, sr.48885

ksj.co.kra.18/09