



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.06.2015

CORAM:

THE HONOURABLE MR. JUSTICE M.M.SUNDRESH

CRL.O.P. (MD) No.16171 of 2014

Kumar

... Petitioner

vs.

1.Mr.Thavamani

2.Mr.Saravanan

3.Mr.K.Perumal

4.Mr.P.Kalaiyarasi

... Respondents

PRAYER: This Criminal Original Petition has been filed under Section 482 of the Code of Criminal Procedure, to set aside the order of the learned Additional District Munsif cum Judicial Magistrate, Manamadurai in Cr.M.P.No.1949 of 2014 dated 02.07.2014 and remand the matter back to the said Court for fresh consideration.

For Petitioner : Mr.T.Lajapathiroy
For R1 and R2 : No appearance

ORDER

This Criminal Original Petition has been filed to set aside the order of the learned Additional District Munsif cum Judicial Magistrate, Manamadurai in Cr.M.P.No.1949 of 2014 dated 02.07.2014 and remand the matter back to the said Court for fresh consideration.

2.Heard the learned Counsel appearing for the petitioners. There is no appearance for the first and second respondents.

3.The petitioner has invoked the power under Section 156(3) Cr.P.C., which was rejected on the ground that there are discrepancies in the proof affidavit and in the complaint.

4.The learned counsel for the petitioner submitted that the petitioner has produced number of documents including medical records and without considering the same, the learned Magistrate has rejected the same.



5.The power under Section 156(3) Cr.P.C is meant to be exercised to make the police officials to act. It is on the pre-cognizance stage. The Court has to look into a prima facie case alone and the order of rejection cannot be passed on technical grounds. Therefore, this Court is not inclined to accept the reasons assigned by the learned Magistrate. The investigation has to be done by the police, when the power under Section 156(3) Cr.P.C is exercised.

6.Accordingly, the order passed by the learned Additional District Munsif cum Judicial Magistrate, Manamadurai, dated 02.07.2014 in Cr.M.P.No.1949 of 2014, is hereby set aside and also a direction issues to the learned Additional District Munsif cum Judicial Magistrate, Manamadurai to look into the complaint and proceed with the matter in accordance with law.

Sd/-
Asst. Registrar()

/True Copy/

Sub Asst. Registrar

To
The Additional District Munsif cum
Judicial Magistrate,
Manamadurai.

+ 1.c.c. To M/s. T. Lajapathi Roy SR.No.34668.

SB:14/7/2015 3c

Cr1.O.P(MD)No.16171 of 2014