

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.06.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.No.11970 of 2016

S.N.Navaneethan

Petitioner/Defacto Complainant

Vs

1.The Commissioner of Police
Tiruppur City.

2.The Inspector of Police
Law and Order
Tiruppur City (North)

Respondents

Prayer:- Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to direct the respondents herein to register the complaint of this petitioner dated 14.03.2016 addressed to the 1st respondent with copies to other Police Officials and to conduct appropriate enquiry through police services and find out whether Ramajayam, son of Rangasamy Naidu at No.77, Kumaran Salai, Tiruppur where he was carrying on electronic and Real Estate business till 2006, is alive and if alive, his whereabouts and to report to the petitioner at an early date.

For petitioner Mr.M.Kalyanasundaram,
Senior Counsel

for Mr.R.Vasudevan

For Respondents Mr.C.Emalias

Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to register the complaint of this petitioner dated 14.03.2016 addressed to the 1st respondent with copies to other Police Officials and to conduct appropriate enquiry through police services and find out whether Ramajayam, son of Rangasamy Naidu at No.77, Kumaran Salai, Tiruppur where he was carrying on electronic and Real Estate business till 2006, is alive and if alive, his whereabouts and to report to the petitioner at an early date.

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

3. It is seen that one Ramajayam went missing in the year 2007, in connection with which a friend of Ramajayam has given a complaint dated 14.03.2016 and has come up with this petition for a direction to the respondent police to register an FIR.

4. In the considered opinion of this Court, no such direction can be issued, in the light of the fact that even according to the petitioner, Ramajayam went missing in the year 2007 and that the petitioner is neither kith nor kin of Ramajayam, but only his friend.

5. Mr.M.Kalyanasundaram, learned Senior Counsel appearing for the learned counsel on record submitted that u/s 108 of the Evidence Act, a burden is cast upon for the Court to presume that if a person is not seen for 7 years, he is dead.

6. In the considered opinion of this Court, Section 108 of the Evidence Act casts a burden on the person who asserts that a man has not been seen alive for seven years to prove that fact. On the proof of that fact, the inference the Court could draw is that the said person is dead. Section 108 of the Evidence Act will apply only to Court proceedings and that can in no way be a reason for the police to register an FIR.

Recording the same, this petition is dismissed with liberty to work out his remedy in the manner known to law.

-s/d-
Assistant Registrar

True Copy

सत्यमेव जयते
Sub-Assistant Registrar

gms

To

1.The Commissioner of Police
Tiruppur City.

2.The Inspector of Police
Law and Order
Tiruppur City (North)

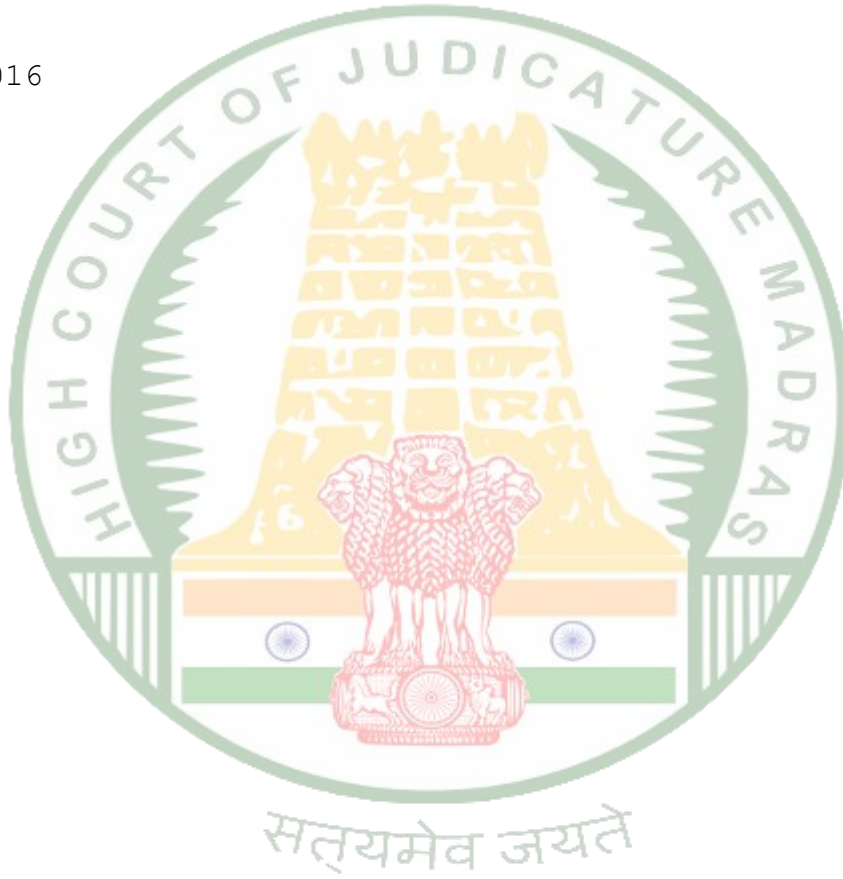
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3.The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.R.Vasudevan Advocate sr.31856/16

Cr1.O.P.No.11970 of 2016

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