

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16. 11.2016

C O R A M

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.O.P.No.1425 of 2016

A.K.Tajudeen

...Petitioner

Vs.

1. The Commissioner of Police
Greater Chennai, Vepery,
Chennai-600 007.
2. The Inspector of Police
B-1, North Beach Police Station,
Rajaji Salai, Parrys,
Chennai-600 001.
(Amended as per the order of this Court dated 1.04.2016
made in Crl.MP.3844 of 2016 in Crl.OP.No.1425 of 2016)
3. M.S.Shihabuddeen
Assistant Secretary
Masjid-e-Mamoor Managing Committee,
Chennai.
4. The Chief Executive Officer
Tamil Nadu Wakf Board
Chennai-600 001.

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C to direct the 2nd respondent to file a charge sheet in FIR No.960/2014 dated 26.08.2014 and initiate further proceedings.

For Petitioner : Mr.T.Velumani

For R1 & R2 : Mr.C. Emalias
Addl. Public Prosecutor

For R3 : Mr.M.J.Jareem Mohammed

O R D E R

This criminal original petition has been filed to direct the 2nd respondent to file a charge sheet in FIR No.960/2014 dated 26.08.2014 and initiate further proceedings.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the 1st & 2nd respondents and the learned counsel appearing for the 3rd respondent.

3. The petitioner / Tajudeen sent two complaints dated 17.12.2012 and 25.11.2013 against Masjid-e-Mamoor Managing Committee and its members for accusing them of certain improprieties. Since no action was taken, Tajudeen filed Crl.OP.No.8682 of 2014 for a direction to the respondent police to register an FIR, based on his complaint dated 25.11.2013. This Court passed the following order in Crl.OP.No.8682 of 2014, on 17.04.2014 which is as follows:

"By way of an interim order, this Court directs the respondent police to peruse the complaint preferred by the petitioner herein and register cases if the same informs commission of cognizable offence. In particular instances, the respondent police may resort to a petition enquiry which again shall not extend beyond a period of one week. This order is made towards effecting and ensuring compliance with the decision of the Apex Court in Lalita Kumari vs. Govt. of U.P. & Others (2013(4) Crimes 243(SC)). It is expected that the respondent police will follow the dictate of the Apex Court in the aforesaid judgment in letter and spirit and not give room for any further action at the hands of this Court. In the event of respondent police not being in receipt of complaint allegedly preferred before them by the petitioner, it is for them to inform such position at the next hearing date. It would always be open to respondent police to inform that petition enquiry earlier stands closed or the case already stands registered.

Post on 10.06.2014."

4. Pursuant to the order dated 17.04.2014 in Crl.OP.8682 of 2014, the respondent police registered a case in Pookadai B1 Police Station Crime No.960/2014 on 26.08.2014 under Section 406 and 420 IPC against J.M.Iqbal, Secretary, Masjid-e-Mamoor Managing Committee and Abdul Rasheed, Assistant Secretary, Masjid-e-Mamoor Managing Committee.

5. At this juncture, Tajudeen filed the present petition Crl.OP.No.1425 of 2016 for a direction to the respondent police to complete the investigation in Crime No.960 of 2014 and file

the charge sheet.

6. When the matter came up for hearing, this Court called for the records in CrI.OP.No.8682 of 2014 and found that in the typed set of papers that were enclosed by Tajudeen, he had kept the complaint dated 25.11.2013 which runs to about 16 pages, but whereas, the FIR has been registered on another complaint that is said to have been given by Tajudeen to the police subsequently.

7. On the direction of this Court, Mr.Tajudeen is present today.

8. Mr.T.Velumani, learned counsel appearing for the petitioner submitted that the police has advised Tajudeen not to give 16 pages of complaint and therefore, he had shortened the complaint and given to the police on 26.08.2014, based on which, the case in Crime No.960 of 2014 has been registered.

9. According to Tajudeen, he had given a representation to the Tamil Nadu Wakf Board with regard to the irregularities by Masjid-e-Mamoor Managing Committee and that the Inspector of Walk Board have also reported acts of misdemeanor.

10. In the considered opinion of this Court, in a matter of this nature, it is for the Wakf Board to take appropriate action and the Criminal law cannot be set into motion by the petitioner without sufficient grounds thereof. In any event, this Court in CrI.OP.No.17853 of 2015 has granted stay of all further investigation in Crime No.960 of 2014 on 23.07.2015. Under such circumstances, until the disposal of CrI.OP.No.17853 of 2015, the police cannot proceed further with the investigation.

In view of the above, this petition is dismissed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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1. The Commissioner of Police
Greater Chennai, Vepery, Chennai-600 007.
2. The Inspector of Police
B-1, North Beach Police Station,
Rajaji Salai, Parrys, Chennai-600 001.

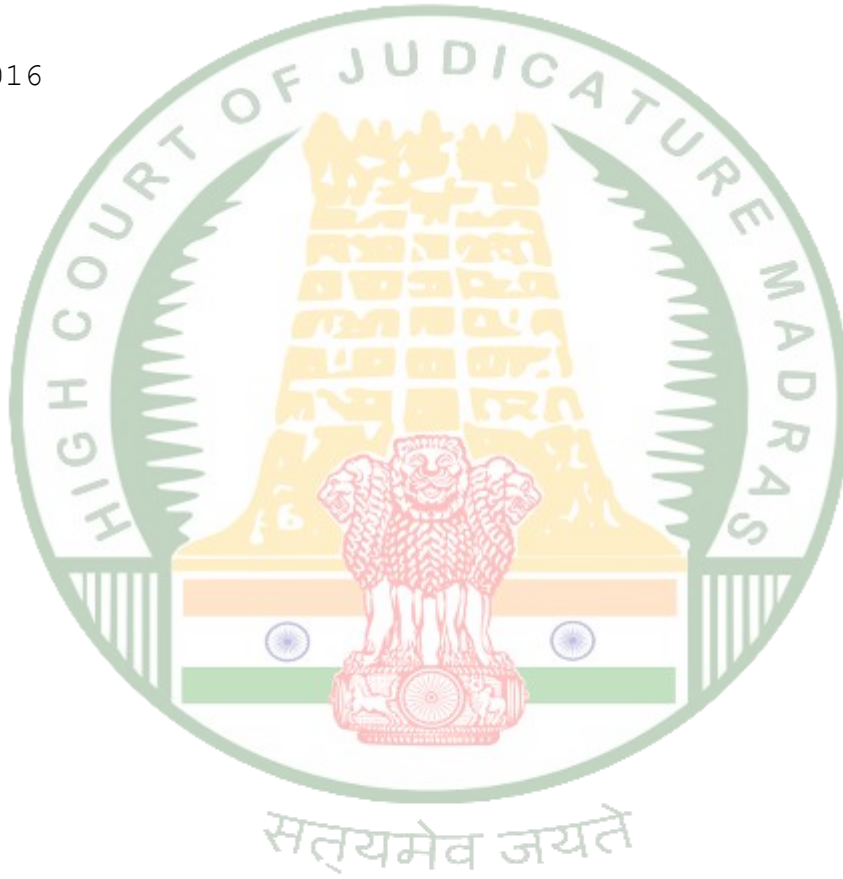
3. The Public Prosecutor, High Court, Madras.

+2 ccs to Mr.T.Velumani Advocate sr 66041

+1 cc to Mr.M.J.Jaseem Mohammed Advocate sr 66066

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