

IN THE HIGH COURT OF JUDICATURE AT MADRAS**DATED : 22.08.2016****CORAM****THE HONOURABLE MR.JUSTICE P.N.PRAKASH****Crl.OP No.15002 of 2016**

Thangaraj Petitioner
Vs

1. The Inspector of Police,
District Crime Branch,
Namakkal District.
2. The Superintendent of Police,
O/o. Superintendent of Police,
Namakkal.
3. The State rep. by
Inspector of Police,
Namakkal Police Station,
Namakkal.

.... Respondents

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to direct the 1st respondent to register F.I.R. on the complaint of the petitioner as per order dated 27.11.2015 passed in Cr. M.P. No.9574/2015 on the file of the Judicial Magistrate Court No.I, Namakkal and to investigate the same in accordance with law and also, file the final report.

For Petitioner : Mr.N.R. Balaji
For Respondents : Mr. C. Emalias,
Addl. Public Prosecutor

ORDER

This Criminal Original Petition has been filed seeking a direction to the 1st respondent to register an F.I.R. on the complaint of the petitioner as per order dated 27.11.2015 passed in Cr. M.P. No.9574/2015 on the file of the Judicial Magistrate Court No.I, Namakkal and to investigate the same in accordance with law and also, file the final report.

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

3. On 01.08.2016, this court passed the following orders;

"It is seen that this petitioner has filed a petition under Section 156 (3) Cr.P.C before the Judicial Magistrate No.I, Namakkal, in Cr.M.P.No.9574 of 2015 for a direction to the respondent police to register an FIR. Pursuant to that, the Judicial Magistrate No.I, Namakkal, by an order dated 27.11.2015, has sent the private complaint to the Inspector of Police, District Crime Branch, Namakkal District to enquire into and either file a report or register an FIR.

2. In *Priyanka Srivastava and Another Vs. State of Uttar Pradesh and Another* reported in (2015) 6 SCC 287, the Hon'ble Supreme Court has categorically stated that Magistrate should not pass orders on petition under Section 156(3) Cr.P.C and that, it should be accompanied by an affidavit.

3. In this case, the petitioner has not filed the copy of any affidavit in terms of the Hon'ble Supreme Court Ruling. If the petitioner has not filed any affidavit before the Judicial Magistrate No.I, Namakkal, along with petition in Cr.M.P.No.9574 of 2015, it is defective filing and therefore, the respondent/the Inspector of Police, District Crime Branch, Namakkal, is directed to verify from the Court of the Judicial Magistrate No.I, Namakkal, as to whether the petitioner had filed an affidavit as directed by the Hon'ble Supreme Court in the above said judgment and if no such affidavit has been filed, the petition in Cr.M.P.No.9574 of 2015 may be returned to the Judicial Magistrate No.I, Namakkal.

4. The Judicial Magistrate No.I, Namakkal, is directed to send a report to this Court as to whether the petitioner had filed any affidavit along with the petition in Cr.M.P.No.9574 of 2015 as per the law laid down by the Hon'ble Supreme Court.

Post the matter on 22.08.2016 for reporting compliance."

4. Today, Mr.N.Ganesan, District Crime Branch, Namakkal is present before this Court.

5. The learned Additional Public Prosecutor, on instructions, submitted that pursuant to the order dated 01.08.2016 passed by this court, the complaint was returned by the police to the Judicial Magistrate, Namakkal on 19.08.2016.

Under such circumstances, no positive direction can be granted as prayed for by the petitioner. Hence, the criminal original petition is dismissed.

22.08.2016

vsi2/sms

To :

1. The Inspector of Police,
District Crime Branch,
Namakkal District.
2. The Superintendent of Police,
O/o. Superintendent of Police,
Namakkal.
3. The Inspector of Police,
Namakkal Police Station,
Namakkal.
4. The Public Prosecutor,
High Court, Madras – 104.

P.N. PRAKASH, J.

vsi2/sms

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