

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 29.08.2016

PRONOUNCED ON: 03.10.2016

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

Cr1.O.P. No.18279 of 2016

S. Diwakar

Petitioner

vs.

The Inspector of Police
R-5 Virugambakkam Police Station
Chennai 600 092

Respondent

Criminal Original Petition filed under Section 482 Cr.P.C. seeking to direct the Inspector, R-5 Virugambakkam Police Station to register the complaint dated 12.07.2016 giving it a Crime Number and to pursue an investigation based on the information registered as FIR and to file a final report on its closure.

For petitioner Mr. S. Diwakar - Party-in-person

For respondent Mr. C. Emalias
Additional Public Prosecutor

ORDER

This Criminal Original Petition is filed seeking to direct the Inspector of Police, R-5, Virugambakkam Police Station to register the complaint dated 12.07.2016 giving it a crime number and to pursue an investigation, based on the information registered as FIR and to file a final report on its closure.

2 Heard Mr. S. Diwakar, petitioner-in-person and Mr. C. Emalias, learned Additional Public Prosecutor appearing for the respondent-State.

3 The petitioner is a practising advocate. He has sent a complaint dated 12.07.2016 to the Inspector of Police, R-5, Virugambakkam Police Station, Chennai and has followed it up with the present petition for a direction to the said police to register an FIR on his complaint.

4 According to the petitioner, one Sakshi Shiva, his childhood friend, introduced one Ayyanar to him for

professional advice. On the instructions of Ayyanaar, he wrote a complaint dated 07.07.2016 addressed to the Inspector of Police, Thiruperumbudur Police Station and accompanied Ayyanar and gave the complaint. On the said complaint, a CSR number was assigned by the Sub Inspector of Police, Thiruperumbudur Police Station. The petitioner was not satisfied with the registration of a mere CSR on the complaint, whereas, his client appeared to have consented to it. Therefore, the petitioner told Ayyanar that if Ayyanar is not inclined to take the matter further, he should pay the agreed amount of Rs.5,000/- to him. The petitioner also sent an SMS to Ayyanar to the effect that if the latter is not interested in proceeding further with the complaint, he should come to his (petitioner's) house and give it in writing and also pay Rs.5,000/-. Despite this SMS, Ayyanar did not turn up and therefore, the petitioner has lodged the present complaint.

5 Mr. S. Diwakar, petitioner-in-person submitted vehemently that a client has got a duty towards his lawyer and in breach of the duty, if he acts, then, the police should conduct an investigation. He also submitted that as an advocate, he has been taking up several cases and only if the police investigate the case, will they come to know the ramifications of the sufferings undergone by him at various stages.

6 In the considered opinion of this Court, only an advocate has got certain duties towards his client and there is no code of conduct governing the behaviour of a client towards his advocate. If the client does not come to the advocate's house and give further instructions or pay the agreed fee, the police machinery cannot be set in motion. It is always open to the advocate to file a suit for recovery of money.

7 It is Mr. Diwakar's contention that he has scribed the complaint dated 07.07.2016 on behalf of Ayyanar and if Ayyanar does not come and give instructions to him not to proceed, he may turn against Diwakar at a later point of time and lodge a false complaint against him in the Bar Council alleging that he had not taken the matter to its logical conclusion.

8 This apprehension of Mr. Diwakar is not totally unfounded. But, registration of an FIR is not an answer to allay such fears. It is always open to Diwakar to send a notice to Ayyanar setting down the aforesaid stand. Despite that, if Ayyanar approaches the Bar Council, Diwakar can very well show the notice and take a stand that only on the oral instructions of Ayyanar, he had not taken the matter forward.

9 In view of the foregoing discussion, this Court is of the considered opinion that this is not a fit case to issue a direction as prayed for by the petitioner, inasmuch

as the complaint given by Mr. Diwakar does not disclose commission of a cognizable offence.

Resultantly, this Criminal Original Petition is dismissed as being devoid of merits.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

cad

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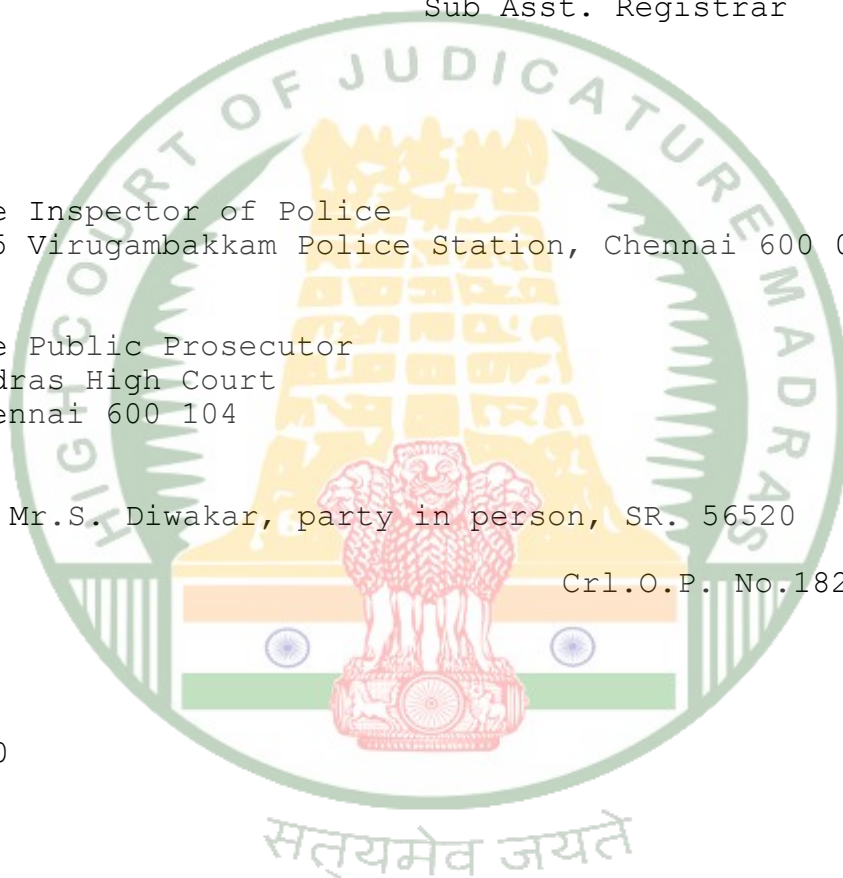
1 The Inspector of Police
R-5 Virugambakkam Police Station, Chennai 600 092

2 The Public Prosecutor
Madras High Court
Chennai 600 104

1 cc to Mr.S. Diwakar, party in person, SR. 56520

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