

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Cr1.O.P.No.235 of 2016

V.Krishnaraj

... Petitioner

Vs

1.K.Ravichandran
2.Parameswari
3.Ganthi

... Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. to direct the learned V Metropolitan Magistrate, or any other Metropolitan Magistrate to take the petitioner's private complaint dated 21.7.2015 against the respondents under Section 200 Cr.P.C. for the commission of offence under Sections 448, 341, 324 and 506(i) I.P.C. on file and duly follow the procedures as per law.

For Petitioner : Mr.R.Arunkumar

ORDER

The present criminal original petition has been filed seeking a direction to the learned V Metropolitan Magistrate, or any other Metropolitan Magistrate to take the petitioner's private complaint dated 21.7.2015 on file.

2. In the petition, it is averred that on 12.1.2013, at about 1.30 p.m., when the petitioner and his wife were watching television at their home, due to previous enmity, the respondents along with four others entered into the petitioner's house and attacked the petitioner and his wife. Subsequently, the petitioner along with his wife went to Kilpauk Medical Hospital, Chennai and took treatment as outpatient. Thereafter, the petitioner lodged a complaint with the Inspector of Police,

K.1, Sembium Police Station on the same day, as against the respondents for the offence under Sections 448, 341, 324 and 506 (i) I.P.C. On receipt of the said complaint, the Sub Inspector of Police, issued CSR in Ref.No.18/2013 dated 12.1.2013. But, the complaint lodged by the petitioner was not taken on file. Hence, the petitioner approached this Court by filing a petition in CrI.O.P.No.5124 of 2013 seeking a direction to the Inspector of Police, K.1, Sembium Police Station to register the complaint given by the petitioner. When the matter was taken up for consideration, it was represented by the learned Additional Public Prosecutor that after conducting enquiry, the complaint given by the petitioner was closed. Hence, this Court closed the said petition by observing that the petitioner is at liberty to work out his remedy by invoking the provisions of Section 156 (3) Cr.P.C., if so advised. Thereafter, the petitioner has filed a private complaint under Section 200 Cr.P.C. as against the respondents before the learned V Metropolitan Magistrate, Egmore, Chennai on 21.7.2015 and the said complaint was adjourned to 4.9.2015 and 9.10.2015 for check and call on. On 9.10.2015, the complaint was returned by the learned Magistrate stating that "all the original documents to be filed". Thereafter, the petitioner complied with the defects and re-presented the same on 14.10.2015. On 14.10.2015, the learned Magistrate once again returned the complaint stating that "Affidavit of the complainant to be filed and guideline given by the Hon'ble Supreme Court in the decision in 2015 (3) CTC 103 to be complied". The petitioner complied with the second requirement also and re-presented the same on 30.10.2015. However, the learned Magistrate once again returned the complaint on the following grounds viz.,

1. How this complaint is maintainable against 4 unknown accused to be explained.
2. When complaint given to police is pending, how this private complaint is maintainable to be explained.
3. Complainant is directed to comply the provision under Section 154(3) of Cr.P.C.

Since the learned Magistrate simply returned the complaint without considering the facts and explanation given by the petitioner and without following the procedures laid down by this Court as well as the Hon'ble Supreme Court, the petitioner

has come up with the present petition seeking a direction to the learned V Metropolitan Magistrate, or any other Metropolitan Magistrate to take the petitioner's private complaint dated 21.7.2015 on file.

3. In my considered opinion, the prayer that has been made by the petitioner cannot be entertained. It is for the petitioner to comply with the requirements and re-present the same before the learned Magistrate and this Court cannot give a direction to the learned Magistrate to take the complaint on file. Hence, the criminal original petition is dismissed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

sbi

To

The V Metropolitan Magistrate,
Egmore, Chennai.

+2cc's to Mr.R.Arunkumar, Advocate, S.R.No.2649

Cr1.O.P.No.235 of 2016

SCD(CO)
CA(02/02/2016)

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