



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.08.2016

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

Crl.O.P.(MD) No.4130 of 2016

WEB COPY

V.Ramesh Kumar

... Petitioner

-Vs-

1. Mahadevan
2. Arockiasamy
3. V.Johnson

... Respondents

Prayer: Petition filed under Section 482 of the Code of Criminal Procedure to direct the learned Judicial Magistrate, Kumbakonam to examine and record the sworn statement of petitioner upon oath as provided under Section 200 Cr.P.C. in the complaint filed by the petitioner on 21.07.2015 pending in R.No.17062 of 2015 in unnumbered Cr.M.P.No. Of 2016 and proceed further in accordance with law.

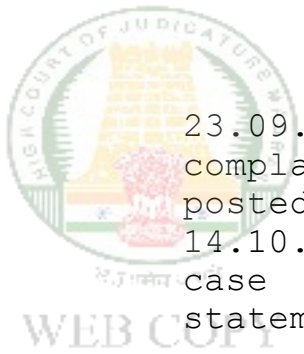
For Petitioner	: Mr.T.R.Subramanian
For R1	: Mr.K.M.Karunaharan
For R2 & R3	: Mr.M.Palaniraja

O R D E R

This petition has been filed, seeking to direct the learned Judicial Magistrate, Kumbakonam to examine and record the sworn statement of petitioner upon oath as provided under Section 200 Cr.P.C. in the complaint filed by the petitioner on 21.07.2015 pending in R.No.17062 of 2015 in unnumbered Cr.M.P.No. of 2016 and proceed further in accordance with law.

2. This Court has called for records from the concerned Court and records have been sent with remarks of the Magistrate, wherein it has been stated as under:

"2.I most humbly beg to submit that originally the Petitioner filed the complaint on 21.07.15 through his counsel. But, the Vakalath given by the Petition in favour of his counsel was not attested and not accepted. Hence, the Complaint was returned as it was filed through his counsel. Thereafter the complainant again represented the complaint after rectification on 28.07.15 and the case was posted on 31.07.15 as check and call on. On 31.07.15 complainant was present and at his request the case was posted to 12.08.15 for recording sworn statement. On 12.08.15 complainant was present and at his request the case was posted to 26.08.15 for recording sworn statement. Again on 26.08.15 complainant was present and at his request the case was posted to



23.09.15 for recording sworn statement. Again on 23.09.15 complainant was present and at his request the case was posted to 14.10.15 for recording sworn statement. On 14.10.15 complainant was present and at his request the case was posted to 04.11.15 for recording sworn statement.

3. I humbly beg to submit that on 04.11.15 complainant was called absent and as such the case was reposted to 30.12.15 and on 30.12.15 complainant was absent and absence petition was filed and allowed and the case was reposted to 06.01.16. On 06.01.16 complainant was called absent and the absence petition was filed and allowed and at request of his counsel the case was posted to 17.02.16 for recording sworn statement. On 17.02.16 again the petitioner was absent and the case was reposted to 30.03.16. On 30.03.2016 the complainant was called absent and there was no representation on his behalf and as such the case was reposted to 20.04.16.

4. I humbly beg to submit that after representation the case was posted for recording sworn statement only on the request of the complainant and that the complainant was not ready to give sworn statement from 31.07.15 to 14.10.15 and the case was periodically reposted for recording sworn statement on his request and thereafter from 04.11.15 to 30.03.16. Complainant was absent and as such sworn statement was not yet recorded."

3. From the report of the learned Judicial Magistrate No.II, Kumbakonam, it is evident that it is the complainant/petitioner herein, who was not ready to give sworn statement for the period from 31.07.2015 to 14.10.2015 and thereafter, from 04.12.2015 to 30.03.2016.

4. At this juncture, learned counsel for the petitioner would submit that the petitioner did not give sworn statement due to misunderstanding of law & procedure and that he is now willing and ready to give sworn statement on anyone of the date to be fixed by this Court. There is also an undertaking by the petitioner to appear before the concerned Court within 10 days from today and give sworn statement.

5. In view of the above submission, this petition is disposed of with a direction to the petitioner to appear before the learned Judicial Magistrate No.II Kumbakonam on anyone of the date within 10 days from today and give sworn statement.

Sd/-

Assistant Registrar(T&P)

/True copy/



To:

The Judicial Magistrate No.II,
Kumbakonam

WEB COPY

+1cc to Mr.T.R.Subramanian, Advocate SR.No.47123

Copy to: The Section Officer,
Criminal Section (Records)
Madurai Bench of Madras High court, Madurai.

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sm:GSV-PM:SAR I:29.08.2016:3P/4C

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