

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.06.2017

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

Crl.O.P.No.7492 of 2017

G.R.Sekar

.. Petitioner

Vs

Additional Director General of Police,
Crime Branch CID, Egmore,
Chennai – 600 008.

.. Respondent

Petition filed under Section 482 of the Criminal Procedure Code, to set aside the ' return endorsement ' by Learned XI Metropolitan Magistrate, Saidapet, Chennai and direct the respondent to register the case based on the complaint dated 02.09.2015 and investigate in accordance with law.

For Petitioner : Mr.A.S.Baalaji

For Respondent : Mr.C.Emalias,
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to set aside the ' return endorsement ' by Learned XI Metropolitan Magistrate, Saidapet, Chennai and direct the respondent to register the case based on the complaint dated 02.09.2015 and investigate in accordance with law.

2. It is the case of the petitioner that the petitioner has lodged a complaint regarding the illegal acts committed by the accused and enquiry is

still pending and the respondent has not registered any case. It is also the case of the petitioner that the petitioner filed a private complaint under Sec.200 Cr.P.C before the learned XI Metropolitan Magistrate, Saidapet for a direction to the respondent to register the case in accordance with law under Sec.156(c) of Criminal Procedure Code.

3. Heard the learned Additional Public Prosecutor and perused the materials available on record.

4. The learned XI Metropolitan Magistrate, Saidapet, returned the petition, filed by the petitioner, under Section 156(3) of Criminal Procedure Code observing thus:

"Returned: 10.04.2017

1. As per Chapter V Para 1 of the CB CID Manual cases can be registered on the orders of Hon'ble High Court/Hon'ble Supreme Court. The relevant portion runs thus:

"1. Regular case should be registered under the following circumstances:-

- a) On the orders of the Supreme Court/High Court;*
- b) On the request of the State Government;*
- c) On the orders of the DGP/CB CID Headquarters.*

The Crime Branch Manual has been approved by the Government as could be seen from G.O.Ms.No.185, Home (Pol.VIII) Department dated 16.02.2004.

2. Further more, Hon'ble High Court in S. Madhiyazhagan Vs State (Cr.O.P.No.9542 of 2015 decided on 20.08.2015) held that the Judicial Magistrate is not empowered under Section 156(3) Cr.P.C to direct the Crime Branch CID to investigate an offence.

Hence, how this petition u/s 156(3) Cr.P.C is maintainable?."

5. In view of the above, the petitioner is directed to give adequate reasons for the query raised in the impugned communication dated 10.04.2017 in line with the orders passed by this Court in Cr.O.P.No.9542 of 2015 dated 20.08.2015. On such reasons given by the petitioner, the learned Magistrate is directed to take up the matter, if the petitioner satisfied the requirement with regard to the maintainability of the petition. With the above direction, the Criminal Original Petition is disposed of.

02.06.2017

Index : Yes/No

Internet : Yes/No

sr

To

1. Additional Director General of Police,
Crime Branch CID, Egmore,
Chennai – 600 008.

2. The Additional Public Prosecutor,
High Court, Chennai – 104.

R.MAHADEVAN, J.,

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