

IN THE HIGH COURT OF JUDICATURE AT MADRAS**DATED: 03.08.2017****CORAM****THE HONOURABLE Mr.JUSTICE M.S.RAMESH****Crl.O.P.No.2218 of 2017**

M.Thiyagarajan

... Petitioner

Vs

1.State rep. by
The Inspector of Police,
S-15, Selaiyur Police Station,
Tambaram.
(Crime No.1121 of 2015).

2.Dharmaraj

... Respondent

Prayer: This petition filed under section 482 of Criminal Procedure Code, praying to set aside the docket order in R.C.S.No:43 of 2016 dated 30.06.2016 on the file of the Judicial Magistrate, Tambaram in Crime No.1121 of 2015 on the file of the 1st respondent and consequentially direct the Learned Judicial Magistrate, Tambaram to number the Protest Petition filed by the petitioner dated 22.04.2016 and direct the Learned Judicial Magistrate, Tambaram to proceed with the matter in accordance with law.

For Petitioner : Mr.S.Kingston Jerold

For Respondent : Mr.C.Emalias
Additional Public Prosecutor
for R1.

ORDER

The Petitioner's complaint registered in F.I.R No.1121 of 2015 came to be closed in RCS No.43 of 2016 dated 08.03.2016. Aggrieved against the same, the petitioner has filed a protest petition under Section 159 and 200 of the Criminal Procedure Code before the learned Judicial Magistrate, Tambaram. However, it is seen that the protest petition has been returned as not maintainable on the ground that the First Information Report has been closed as mistake of fact.

2. I am unable to accept the findings of the learned Judicial Magistrate in returning the papers. Whenever, the complaint has been closed as mistake of fact, it is always open to the aggrieved persons to file a private complaint under Section 200 of Cr.P.C. As such, the learned Judicial Magistrate ought to have taken the matter on file instead of returning it.

3. In these circumstances, the learned Judicial Magistrate, Tambaram, is directed to take up the petitioner's private complaint dated 22.04.2016 on file and number it and dispose of the same on merits and in

accordance with law as expeditiously as possible. Accordingly, the Criminal Original Petition stands allowed.

4. Registry is directed to return the original protest petition to the counsel for the petitioner.

03.08.2017

Index : Yes/No

Internet : Yes/No

mrp

To

1. The Inspector of Police,
S-15, Selaiyur Police Station,
Tambaram.

2. The Public Prosecutor,
High Court, Madras.



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M.S.RAMESH, J.

mrp



Cri.O.P.No.2218 of 2017

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