



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.06.2017

CORAM

WEB COPY

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

Crl.O.P.(MD) No.6947 of 2017

T.Victor

... Petitioner

-vs-

1.Siriyapushpam

2.James

3.Rajendran

4.Irudhayaraj

5.The Inspector of Police,
Thanjavur Taluk Police Station,
Thanjavur.

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to set aside the order dated 04.04.2017 passed by the learned Judicial Magistrate No.II, Thanjavur rejecting the petition unnumbered Cr.M.P.No.../2017 and thereby direct the learned Judicial Magistrate, No.II, Thanjavur to take the said petition on its file and proceed in accordance with law.

For Petitioner : Mr.S.Rajaprabhu

For Respondent No.5 : Mr.K.Anbarasan

Government Advocate (Crl. side)

O R D E R

The petitioner filed a private complaint under Sections 200 and 156(3) Cr.P.C. before the Judicial Magistrate, NO.II, Thanjavur and the same has been dismissed on 04.04.2017, challenging which, the petitioner is before this Court.

2. Heard the learned counsel for the petitioner and the learned Government Advocate for the 5th respondent.

3. Today, Mr.Viruthachalam, Special Sub Inspector of Police, Thanjavur Taluk Police Station, Thanjavur is present before this Court.



4. On a reading of the impugned order, it is seen that the learned Judicial Magistrate has dismissed the case on three grounds, namely,

(i) That the complainant has not filed necessary affidavit in conformity with the Circular issued by the High Court;

(ii) That the complainant has not kept the stamped RPAD ;
and

(iii) That already a petition enquiry is pending in Taluk Police Station.

5. In the opinion of this Court, the first two grounds are procedural in nature and therefore, the petition could have been returned by the learned Magistrate for compliance and representation. As regards the third ground, it is not known as to how the learned Magistrate came to know that a petition enquiry is pending in the Taluk Police Station. Of course, under Section 210 Cr.P.C., a case can be stayed, when atleast investigation is pending. The third portion of the order is judicial in nature and it cannot gel with the first two grounds, which are administrative in nature.

6. In the result, this petition is allowed and the order dated 04.04.2017 passed by the learned Magistrate is set aside and the matter is remanded afresh to the Judicial Magistrate, NO.II, Thanjavur. The learned Magistrate can return the petition, administratively, if it does not confirm with the law laid down by the Supreme Court in *Priyanka Srivatsava and another v. State of U.P. and others* [(2015) 3 CTC 103] and the Circular issued by the High Court. If those conditions are satisfied, it is not necessary that in every case, the Judicial Magistrate should act as a post office and send the complaint to the police under Section 156(3) Cr.P.C. If the Magistrate finds that there are no merits in the complaint, he can refuse to send the same under Section 156(3) Cr.P.C. by passing an order. If a case has been registered and investigation is in progress, the Magistrate can act under Section 210 Cr.P.C.

7. With the above observations, this petition is ordered accordingly.

Sd/-

Assistant Registrar(Crl.Side)

/True Copy/

Sub-Assistant Registrar



To:

1.The Judicial Magistrate, No.II, Thanjavur.

2.The Chief Judicial Magistrate,
Tanjore at Kumbakonam

3.The Inspector of Police,
Thanjavur Taluk Police Station,
Thanjavur.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

5.The Section Officer,
E.R.Section,
Madurai Bench of Madras High Court,
Madurai
(To Return of the Original Impugned Order)

+One c to Mr.S.Rajaprabhu, Advocate, SR.No.59479

RR

RL/7C/3P/MR/SAR4/22/6/2017

Cr1.O.P.(MD)No.6947 of 2017
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