



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.07.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL.OP(MD)No.8792 of 2017

A.Kuthalingam

...Petitioner/Defacto Complainant

Vs.

1.The Superintendent of Police,
Theni District.

2.The State rep. by,
The Inspector of Police,
Devadanapatti Police Station,
Theni District.

... Respondents/Complainants

PRAYER: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to direct the respondents herein to forthwith cause arrest and secure persons of the accused 3 and 4 in Crime No.298 of 2017 on the file of the Inspector of Police, Devadanapatti Police Station, Theni District.

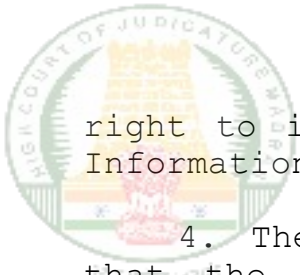
For Petitioner	: Mr.K.Appadurai
For Respondents	: Mr.K.Anbarasan, Government Advocate(Criminal Side)

O R D E R

This Criminal Original petition is filed to direct the respondents herein to forthwith cause arrest and to secure persons of the accused 3 and 4 in Crime No.298 of 2017 on the file of the Inspector of Police, Devadanapatti Police Station, Theni District.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate(Criminal side) appearing for the respondents.

3. The case of the petitioner is that he was brutally assaulted and there was an attempt of murder. Though the petitioner stated that the accused Nos.3 and 4 have instigated the others who committed the offence on the date of occurrence, this Court is of the view that the petition cannot be entertained, as further action should be based on the information collected during the investigation. The petitioner who is the defacto complainant has no



right to insist arrest of the persons who are named in the First Information Report without holding any enquiry.

4. The second respondent also filed a Status Report stating that the first accused in this case, namely, one Moorthy was arrested on 01.06.2017 and his confession was also recorded by the second respondent. During the investigation, the respondents seems to have examine 8 witnesses under Section 161(3) of Cr.P.C. It is also stated that they have taken all efforts which is required to secure the interest of justice.

5. This Court is not able to appreciate the stand taken by the learned counsel for the petitioner that the defacto complainant can insist the arrest of persons who are named in the First Information Report. Similarly, on the basis that certain names have been found in the First Information Report, the respondents cannot take any action without a preliminary enquiry. In the Status Report, it has been stated that the investigation is almost over. Hence, the respondents are directed to file a final report within a period of three months from the date of receipt of a copy of this order. Hence, the Criminal Original petition is dismissed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To

1.The Superintendent of Police,
Theni District.

2.The Inspector of Police,
Devadanapatti Police Station,
Theni District.

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

+1cc to Mr.K.APPADURAI Advocate in SR. No.68222
PMU
JS/GT/SAR.1/30.08.2017/2P-5C

CRL.OP(MD)No.8792 of 2017
27.07.2017