



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.06.2017

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE A.M.BASHEER AHAMED

Crl.R.C.(MD)No.249 of 2017

S.Pandiyarajan

... Petitioner

Vs.

1.Perumal
2.P.Pandiyammal
3.K.Paramasivam
4.P.Veeraselvi
5.The Sub Inspector of Police,
Sattur Town Police Station,
Virudhunagar District.

... Respondents

PRAYER: The Criminal Revision Case filed under Sections 397 and 401 Cr.P.C., to call for Record and set aside the docket order passed by the Judicial Magistrate No.II, Sattur in Crl.M.P.No.488 of 2017 on 27.02.2017.

For Petitioner : Mr.M.Jothibas

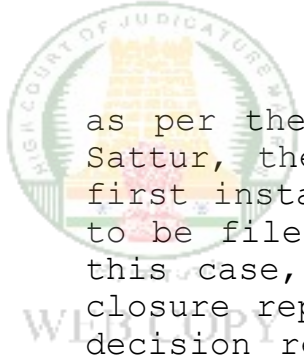
O R D E R

This Criminal Revision Case is preferred against the docket order passed by the Judicial Magistrate No.II, Sattur in Crl.M.P.No.488 of 2017 on 27.02.2017 accepting the closure report filed by the respondent and closed the Crl.M.P.No.488 of 2017.

2.The learned counsel for the petitioner is present. Mr.C.Mayilvahana Rajendran, Additional Public Prosecutor takes notice for the 5th respondent and heard.

3.On perusal of records and also hearing the arguments advanced by both sides, the petitioner has preferred a complaint under Section 156(3) Cr.P.C.before the learned Judicial Magistrate No.II, Sattur and the learned Judicial Magistrate by order dated 25.01.2017 stating that prima facie case was made out and hence, forwarded the said complaint to the Inspector of Police, Sattur Taluk Police Station, Virudhunagar District for conducting investigation and to file a report. Thereafter, the Inspector of Police, Sattur Taluk Police Station submitted a report and the learned Judicial Magistrate has accepted the said report and closed the petition under Sections 156(3) Cr.P.C.

4.The learned counsel for the petitioner would contend that



as per the order passed by the learned Judicial Magistrate No.II, Sattur, the Inspector of Police is bound to register a FIR at the first instance and after investigating the case, a final report has to be filed before the concerned Judicial Magistrate. However, in this case, without registering FIR, the respondent Police filed a closure report, which is illegal. The learned counsel relied on a decision reported in **2006(1) SCC (Cri.) 460 (Mohd.Yousuf Vs. Afaq Jahan (Smt.) and another)** in which it is held that registration of FIR involves only the process of entering the substance of the information relating to commission of the cognizable offence in a book kept by the officer in charge of the police station to register an FIR when investigation under Section 156(3) is directed by the Magistrate, even when the magistrate explicitly does not say so and **2016(3) MWN (Cr.) 236 (Sugesan Transport Pvt.Ltd., Vs. The Assistant Commissioner of Police and others)** wherein it has been held that failure to register FIR pursuant to order passed by Magistrate under Section 156(3) Cr.P.C. is liable to be prosecuted under Section 21 r/w 44 of District Police Act.

5.The learned Additional Public Prosecutor also admit the fact that without registering FIR the Police has submitted a closure report and on the basis of which, the learned Judicial Magistrate passed the impugned order, which is not legal one.

6.Considering the facts and circumstances of the case and in view of the decisions (cited supra), this Court is inclined to set aside the order in CrI.M.P.No.488 of 2017 passed by the Judicial Magistrate No.II, Sattur, Virudhunagar District. Accordingly, the impugned order is set aside and the respondent Police is directed to comply with the order dated 25.01.2017 passed by the learned Judicial Magistrate No.II, Sattur by registering FIR and investigate the matter and thereafter, submit a report before the Court concerned as expeditiously as possible.

7.The Criminal Revision Case is disposed of.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

The Judicial Magistrate No.II, Sattur.

+ 1 CC TO Mr.M.JOTHIBASU, ADVOCATE IN SR No. 61978

NBJ

TE/JC/SAR-IV : 18/07/2017 : 2P/3C

<https://hcservices.ecourts.gov.in/hcservices/>

CrI.R.C. (MD) No.249 of 2017
27.06.2017