

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 30.06.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE P.N.PRAKASH**CRL.O.P. (MD) SR.No.1248 of 2017**

K.Saravanan

: Petitioner

-Vs-

1. K.Ganesan,
Sub-Inspector of Police (Crime),
Karur Town Police Station/03.01.2013,
(Crime No.05/2013, dt.03.01.2013),
C/o. The Superintendent of Police,
District Police Office, Karur,
Karur District-639 007.
2. I.Cetric Manuvel,
Inspector of Police,
Karur Town Police Station/07.01.2013-10.06.2013,
(Crime No.05/2013 dt.03.01.2013),
C/o. The Superintendent of Police,
District Police Office, Karur,
Karur District-639 007.
3. N.Ramanathan,
Judicial Magistrate, J.M.Court No.1 (FAC),
Karur/09.01.2013-22.01.2013,
C/o.The Registrar General,
Madras High Court of Judicature,
Chennai-600 104.
4. P.Palanivel,
The Assistant Jailor &
The Jail Superintendent, Sub-Jail,
Karur/10.01.2013-07.02.2013,
C/o. The Superintendent of Prisons,
The Central Prison,
Tiruchirappalli-620 020.
5. M.Padmanaban,
Judicial Magistrate, J.M.Court No.1,
Karur/14.12.2013-30.04.2016,
C/o.The Registrar General,
Madras High Court of Judicature,
Chennai-600 104.



6. A.Vanitha,
Judicial Magistrate, J.M.Court No.1,
Karur/02.05.2016-06.06.2016,
C/o. The Registrar General,
Madras High Court of Judicature,
Chennai-600 104.
7. P.Revathi,
Judicial Magistrate, J.M.Court No.1 (FAC),
Karur/07.06.2016-08.06.2016,
C/o.The Registrar General,
Madras High Court of Judicature,
Chennai-600 104.
8. P.Mohanavalli,
Judicial Magistrate, J.M.Court No.1,
Karur/09.06.2016 till date,
C/o. The Registrar General,
Madras High Court of Judicature,
Chennai-600 104.

: Respondents

PRAYER: Petition is filed under Section 482 of the Criminal Procedure Code praying to pass orders:

(1) calling for the entire papers of the case in C.C.No.113 of 2013 u/s.379 IPC @ 392 IPC from the incompetent Court of J.M.No.I, Karur and

(i) Quashing the impugned FIR dated 03.01.2013 of u/s.379 of IPC 1860 and other impugned documents authorized by the R1 herein on 03.01.2013 in Crime No.05/2013 of Karur Town Police Station in C.C.No.113/2013 of J.M. Court No.I, Karur.

(ii) Quashing the impugned PT warrant dated 09.01.2013 issued by the R3 herein on the instigation of the R2 herein and subsequent impugned remand report dated 10.01.2013 authorized by the R2 herein on 10.01.2013 and the impugned remand order dated 10.01.2013 authorized by the R3 herein.

(iii) Quashing the impugned proceedings of the R2 herein from 07.01.2013 to 10.06.2013 and all the impugned documents authorized by the R2 herein in Crime No.05/2013 dated 03.01.2013 of Karur Town Police Station in U/s.379 IPC @ 392 IPC in C.C.No.113/2013 of J.M. Court No.I, Karur.

(iv) Quashing the impugned proceedings of the R3, R4, R5, R6, R7 & R8 herein from 09.01.2013 to till date in connection with the impugned case in crime No.05/2013 dated 03.01.2013 u/s.379 IPC and



(v) Quashing the impugned proceedings of the LW9-A.Dhanasekaran in conducting the impugned identification parade on 07/02/2013 in the Sub-Jail at Karur and his impugned identification parade report dated 07.02.2013 in connection with the impugned case in Crime No.05/2013 dated 03.01.2013 u/s.379 IPC and 379 IPC @ 392 IPC in C.C.No.113/2013 of J.M.Court No.I, Karur.

(vi) Punishing the R1 herein for his committed offences in Crime No.05/2013 dated 03/01/2013 of Karur Town Police Station in C.C.No.113/2013 of the Court of J.M.No.I, Karur under Article 20 (1) of the Constitution of India, 1950 r/w Sections 166, 166-A, 182, 193, 341, 342, 343, 417, 465, 471 etc., of IPC, 1860.

(vii) Punishing the R2 herein for his committed offences in Crime No.05/2013 dated 03.01.2013 of Karur Town Police Station in C.C.No.113/2013 of the Court of J.M.No.I, Karur, under Article 20 (1) of the Constitution of India 1950 r/w sec. 166, 166-A, 182, 193, 195, 211, 220, 344 r/w 109, 417, 465, 471 etc., of IPC, 1860.

(viii) Punishing the R3 herein for his committed offences in Crime No.05/2013 dated 03.01.2013 of Karur Town Police Station in C.C.No.113/2013 of the Court of J.M.No.I, Karur under Article 20 (1) of the Constitution of India 1950 r/w sec.166, 219, 220, 344 etc., IPC, 1860.

(ix) Punishing the R4 herein for his committed offences in Crime No.05/2013 dated 03.01.2013 of Karur Town Police Station in C.C.No.113/2013 of the Court of J.M.No.I, Karur under Article 20 (1) of the Constitution of India 1950 r/w sec.166 and 344 etc., IPC 1860.

(x) Punishing the R5, R6 and R7 herein for their committed offences in Crime No.05/2013 dated 03/01/2013 of Karur Town Police Station in C.C.No.113/2013 of the Court of J.M.No.1, Karur, under Article 20(1) of the Constitution of India 1950 r/w sec. 166, 219, 220 etc., IPC, 1860.

(xi) Punishing the R8 herein for her committed offence in Crime NO.05/2013 dated 05.01.2013 of Karur Town Police Station in C.C.No.113/2013 of the Court of J.M.No.I, Karur under Article 20 (1) of the Constitution of India 1950 r/w Sec.166, 219, 220, 344, 417 etc., of IPC, 1860.

2) Discharging the petitioner herein as innocent from the false, fictitious, concocted, frivolous and vexatious case against me in Crime No.05/2013 dated 03.01.2013 of Karur Town Police Station in C.C.No.113 of 2013 of the Court of J.M.No.I, Karur.

3) Awarding the petitioner herein the entire fine amount so imposed/inflicted upon R1, R2, R3, R4, R5, R6, R7 and R8 herein in

Crime No.05/2013 dated 03.01.2013 of Karur Town Police Station in C.C.No.113/2013 of the Court of J.M.No.I, Karur under the provision of law u/s.250 of Cr.P.C., 1973 of India and for the untold hardship, mental worries & Mental agony caused in him due to the false case against him in Crime No.05/2016 of Karur Town Police Station in C.C.No.113 of 2013 of Karur J.M.Court No.I, and

4) Passing any such further or other orders, directions, relief, remedy which deemed fit and proper in the circumstances of the case under the provision of law u/s.482 of Cr.P.C., 1973 of India and in the interest of fair administration of law and justice, principles of natural justice and in the interest of ends of justice and thus render justice.

For Petitioner : Mr.P.Balasubramaniyan.

Reserved on	Delivered on
27.06.2017	30.06.2017

O R D E R

On the complaint lodged by one Madhupriya, the Sub-Inspector of Police, Karur Town Police Station, has registered a case in Crime No.5 of 2013 for the offence under Section 379 of the Indian Penal Code and after completing the investigation, filed a final report in C.C.No.113 of 2013 before the learned Judicial Magistrate No.I, Karur, against one Senthilkumar and the petitioner herein for the offence under Section 379 of the Indian Penal Code @ 392 of the Indian Penal Code. While so, this petitioner has filed the present petition with the above prayer.

2. In the petition, the petitioner made the Judicial Magistrates, Karur, as party-respondents by name. Therefore, the Registry doubted the very maintainability of the petition and for deciding the issue of maintainability, the matter was posted in the open Court.

3. This Court heard Mr.P.Balasubramaniyan, learned counsel for the petitioner, who submitted that the right under Article 20(1) of the Constitution of India is supreme and it cannot be infringed. He also placed reliance on Lectures on Administrative Law by C.K.Takwani and relied upon various passages from Dicey.

4. It is the grievance of the petitioner that the learned Judicial Magistrate, Karur, has no authority to entertain the First Information Report that has been registered by the Sub-Inspector of Police, Karur Town Police Station and that the First Information Report should go to the Sessions Court.



5. In the considered opinion of this Court, this is clearly against Section 157 of the Code of Criminal Procedure, wherein it is stated that the police shall report about the investigation to the Jurisdictional Magistrate and not to the Sessions Court. That apart, the Judicial Officer cannot be made as a party by name, since their actions are protected by the Judges (Protection) Act, 1985.

6. In view of the above, the objection raised by the Registry is upheld and this petition is dismissed as not maintainable.

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

+2cc to M/S. P.BALASUBRAMANIYAN, Advocate, SR.No.25590.

Order made in
CRL.O.P. (MD) SR.No.1248 of 2017
30.06.2017

SML
SDS/JC/SAR 1/07.08.2017/5P/3C