

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.08.2018

CORAM:

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

Crl.O.P. No.10037 of 2018 & Crl.M.P. Nos.6082 and 6083 of 2018

Syed Layak Ali

Petitioner

vs.

- 1 The State represented by
the Additional Director General of Police - Crime
Egmore
Chennai 600 008
- 2 The Superintendent of Police
Video Piracy & Intellectual Property Cell
Egmore
Chennai 600 008
- 3 The Inspector of Police
Video Piracy & Intellectual Property Cell
Egmore
Chennai 600 008
- 4 The Deputy Commissioner of Police
Central Crime Branch
Vepery
Chennai 600 007
- 5 The Inspector of Police
Central Crime Branch - I
Chennai

Respondents

(Ref. Cr. No.367/2017 dated 28.10.2017)

Criminal Original Petition filed under Section 482 Cr.P.C. seeking a direction to the fifth respondent to file final report/charge sheet in connection with Cr. No.367/2017 dated 28.10.2017 as per the order dated 22.09.2017 passed by this Court in Crl.O.P. No.19374 of 2017.

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For petitioner

Mr. A. Ramesh, Sr. Counsel
for Mr. C. Arun Kumar

For respondents

Ms. M. Prabavathi
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed seeking a direction to the fifth respondent to file final report/charge sheet in connection with Cr.No.367/2017 dated 28.10.2017 as per the order dated 22.09.2017 passed by this Court in CrI.O.P. No.19374 of 2017.

2 The de facto complainant (petitioner herein) filed M.P. No.6795 of 2015 before the Chief Metropolitan Magistrate, Egmore, Chennai, under Section 156(3) Cr.P.C., wherein, on 24.07.2017, the following directions were issued:

"9. In the result, the request of the complainant is hereby accepted and this complaint is forwarded to the Deputy Commissioner of Police, Central Crime Branch, Chennai, for investigation u/s 156(3) of Cr.P.C. The Deputy Commissioner of Police is further directed to enquire into the matter, register the case, if necessary, take necessary action and file a report before this Court in accordance with law within a period of two months from the date of receipt of this order."

3 Since FIR was not registered notwithstanding the aforesaid order, the de facto complainant filed CrI.O.P. No.19374 of 2017 under Section 482 Cr.P.C. for a direction to the police to comply with the order dated 24.07.2017 passed by the Chief Metropolitan Magistrate, Egmore, Chennai.

4 In CrI.O.P. No.19374 of 2017, this Court issued the following directions on 13.10.2017:

"Nevertheless, since the order has not been complied, it would be appropriate to direct the fourth respondent to register the petitioner's complaint dated 11.05.2015 forthwith and conduct a proper investigation in accordance with law. Final report/charge sheet shall be filed within a period of 90 days from the date of registration of the complaint."

5 Pursuant to the aforesaid directions, the police have registered a regular FIR in Cr. No.367 of 2017 on 28.10.2017 under Sections 63-A and 51 of the Copyright Act and Section 406 IPC against 5 accused. While that being so, the de facto complainant has filed the present petition with the above prayer.

6 It is a trite law that this Court cannot issue a direction to the police as to how they should have to investigate and what report they should file after the culmination of the investigation. It is always open to the police to file a charge sheet or a closure report, after the culmination of the investigation.

7 Therefore, the direction issued by this Court on 13.10.2017 in Crl.O.P. No.19374 of 2017 directing the police to file a final report/charge sheet within 90 days from the date of registration of the complaint may not be legally correct, especially, in view of the ruling of the Privy Council in Emperor vs. Khwaja Nazir Ahmed [AIR 1945 PC 18], which has been followed by the Supreme Court in Shariff Ahmed and others vs. State (NCT of Delhi) [(2009) 14 SCC 184].

8 Since, today, this Court has granted an order of interim stay of the proceedings in Cr. No. 367 of 2017 on the file of the Central Crime Branch - I, Chennai, in Crl.O.P. No.24293 of 2017 and Crl.M.P. No.14037 of 2017, which is the subject matter in issue in this petition, no direction as prayed for by the petitioner, can be granted.

Hence, this Criminal Original Petition is closed for the present with liberty to the petitioner to approach this Court, after the disposal of Crl.O.P. No.24293 of 2017. Connected Crl.M.P. is closed.

Sd/-

Assistant Registrar(CS vi)

//True Copy//

Sub Assistant Registrar

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To

- 1 The Additional Director General of Police - Crime
Egmore, Chennai 600 008
- 2 The Superintendent of Police
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- 3 The Inspector of Police
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Vepery, Chennai 600 007
- 5 The Inspector of Police
Central Crime Branch - I, Chennai
- 6 The Public Prosecutor
Madras High Court
Chennai 600 104

+1 cc to Mr.C.Arun kumar Advocate SR.NO. 55842

Crl.O.P. No.10037 of 2018

ASK(06/09/2018)

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