IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2018

CORAM

THE HONOURABLE MR.JUSTICE P. RAJAMANICKAM

Crl.OP.No.22084 of 2018

M.Sellathurai ..Petitioner

Vs.

1.The State Rep.by
The Inspector of Police,
Palladam Police Station,
Palladam.

2.M.Shanthi.

3.M.Senthil
(R2 & R3 Impleaded as per the
Order of this Court Dt.24/09/2018
made in Crl.MP.No.12599 of 2018 in
Crl.OP.No.22084 of 2018.) ..Respondents

Prayer:- Criminal Original Petition is filed under Section 482 Cr.P.C, to issue direction to Respondent to register the complaint dated 08.09.2018 in CSR.No.469/2018 and investigate the same in accordance with law.

For Petitioner : Mr.M.Prabaharan
For Respondents : Mrs.M.Prabhavathi
Additional Public Prosecutor

O R D E R

This petition has been filed to direct the first respondent to register a case based on the complaint given by the petitioner.

2. A Hon'ble Division Bench of Madurai Bench of this Court by the order dated 20.09.2018 in G.Prabakaran Vs. The Superintendent of Police, Thanjavur District and another in (Crl.OP.(MD)No.13681 of 2018 etc., batch), while answering the references, has observed in paragraph Nos. 35 and 36 as follows:

> ''35.Accordingly, we answer the references in the following manner, while giving certain directions:
>
> (i) Section 482 Cr.P.C. Cannot be invoked in all circumstances.

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(ii) It is not an alternative remedy to Section 156(3) Cr.P.C but a repository of inherent power.

(iii) The normal course of remedy on a failure or refusal to record the information is Section 156(3) of the Code of Criminal Procedure after due compliance of Section 154 (3) Cr.P.C

(iv) A petition can be file invoking the inherent jurisdiction of this Court only after the completion of 15 days from the date of receipt of the information by the Station House Officer. The Registry shall not receive any petition before the expiry of 15 days aforesaid.

(v) No petition shall be entertained without exhausting the remedy under Section 154 (3) Cr.P.C.

(vi) An informant can send substance of the information to the superintendent of Police on knowing the decision of the Station House Officer in not registering the case and proceeding with the preliminary enquiry. After conducting the preliminary enquiry, the Station House Officer's decision in either registering the compliant or closing it will have to be intimated to the informant immediately and in any case not later than 7 days. Once such a decision is made, the informant cannot invoke Section 482 Cr.P.C. as the remedy lies elsewhere.

(vii) The directions issued by the Director General of Police in the circulars referred are to be strictly complied with by all the Station House Officers.

(viii) The affidavit to be filed shall contain particulars regarding the date of complaint, receipt and the date of sending substances of the information to the Superintendent of Police under Section 154(3) Cr.P.C. and its receipt. The Registry shall not number any petition without due compliance.

(ix) This Court is not bound to direct the police to register the complaint in all cases not withstanding the breach of time table furnished in Lalitha Kumari's case.

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(x) The Judicial Magistrate, while dealing the petitions under Sections 156(3) Cr.P.C. are directed to keep in mind the narrative in Lalitha Kumari's case with specific reference to the cases, which might require a preliminary enquiry before issuing a direction to investigate and after careful perusal of the complaint. The other directions issued by the learned Single Judge in Sugesan Transport's case are upheld.

(xi) Eschewing Section 156(3) Cr.P.C. is only on exceptional and rarest of rare cases. Monstrosity of the offence, extreme official apathy and indifference, need to answer the judicial conscience, and existence of hostile environment are few of the factors to be borne in mind to bring a case under the rarest of rare one.

The references stands ordered accordingly.

36. We have perused most of the petitions by spending substantial time. We find that there is no compliance of the time table as delineated above nor the procedure under Section 154(3) Cr.P.C. Therefore, all these petitions stands closed, giving liberty to file fresh petitions if otherwise come within the purview of our decision and subject to compliance of the directions issued. Since the Criminal Original Petitions themselves are closed, no order is necessary in the Miscellaneous Petitions to implead the petitioners in Miscellaneous Petitions as parties and hence, all the Miscellaneous Petitions stands closed. Crl.M.P.(MD) No.10566 of 2016 in Crl.O.P.(MD) No.4854 of 2016 is also closed since there is no valid reason to recall the order of this Court in Crl.O.P.(MD) No.4854 of 2016 dated 12.04.2016.

3. In this petition also, I find that there is no compliance of the time table as delineated above nor the procedure prescribed under Section 154 (3) Cr.P.C. Hence, following the aforesaid decision, the Criminal Original Petition is closed giving liberty to the petitioner to file fresh petition, if otherwise come within the purview of the

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aforesaid decision and subject to compliance of the directions issued in the aforesaid decision.
Jen

Sd/-
Assistant Registrar(CS-CCC)

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Sub Assistant Registrar

To

1.The Inspector of Police,
Palladam Police Station,
Palladam.

2.The Public Prosecutor,
High Court, Madras.

KR/30/10/18

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