

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2018

CORAM

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

Crl.O.P.No.22660 of 2018
and
Crl.MP.No.12573 of 2018

V.Ilangovan
Rep by his Power agent V.Ramanathan ... Petitioner

Vs.

The Station House Officer,
Muthialpet Police Station,
Muthialpet,
Puducherry-605 003. ...Respondent

Prayer : Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records and to set aside the Docket order dated 25.07.2018 passed in unnumbered Crl.M.P.No..../2018 in C.C.No.31 of 2017 on the file of the learned Judicial Magistrate No.2, Puducherry in connection to the Crime No.210 of 2012 on the file of the respondent police and order further investigation.

For Petitioner : Mr.R.Sreedhar

For Respondent : Mr.D.Bharatha Chakravarthi
Public Prosecutor (Pondicherry)

O R D E R

This petition has been filed by the defacto complainant to set aside the order passed by the learned Judicial Magistrate No.2, Puducherry dated 25.07.2018 passed in unnumbered Crl.M.P.No..../2018 in C.C.No.31 of 2017.

2.The learned counsel for the petitioner has submitted that the petitioner has filed an objection petition for the charge sheet filed by the respondent in Crime No.210 of 2012. He further submitted that the learned Judicial Magistrate No.2 has simply returned the said petition stating that how the said

petition is maintainable. He further submitted that the learned Magistrate ought to have passed an order either allowing or dismissing the petition and instead of that, he should not have returned the petition and he further submitted that the respondent has also filed an application before the trial Court under Section 173(8) Cr.P.C., seeking permission for further investigation, the learned Judicial Magistrate has dismissed the said petition and hence he requests to set aside the aforesaid order and direct the Judicial Magistrate to dispose of the petition on merit. The learned counsel for the petitioner has further submitted that the learned Judicial Magistrate may be directed to dispose the said petition and thereafter proceed with the trial.

3. The learned Public Prosecutor has submitted that the learned Judicial Magistrate has not passed any order dismissing the petition and on the contrary, he has raised a query as to the maintainability of the petition and in such a case, the petitioner should have re-presented the petition and make a request to pass an order on merit and therefore he requests to dismiss the petition.

4. Admittedly, the learned Judicial Magistrate has not passed any order on the petition filed by the petitioner herein. On the contrary, he has returned the said petition raising a query as to how the said petition is maintainable. In such a case, the petitioner should have re-presented the said petition justifying the grounds on which the said petition is maintainable. Instead of that, he should not have approached this Court by filing petition under Section 482 Cr.P.C., Therefore, the petitioner is directed to re-present the said petition within a week from the date of receipt of a copy of this order mentioning the reasons how the said petition is maintainable. On such re-presentation of the said petition, the learned Judicial Magistrate No.2, Pudhucherry has to consider the same and pass order on merits and in accordance with law before proceeding further in C.C.No.31 of 2017.

5. With the aforesaid directions, this petition is disposed of. Consequently, connected Miscellaneous Petition is closed.

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Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1.The Station House Officer,
Muthialpet Police Station,
Muthialpet,
Pondicherry-605 003.

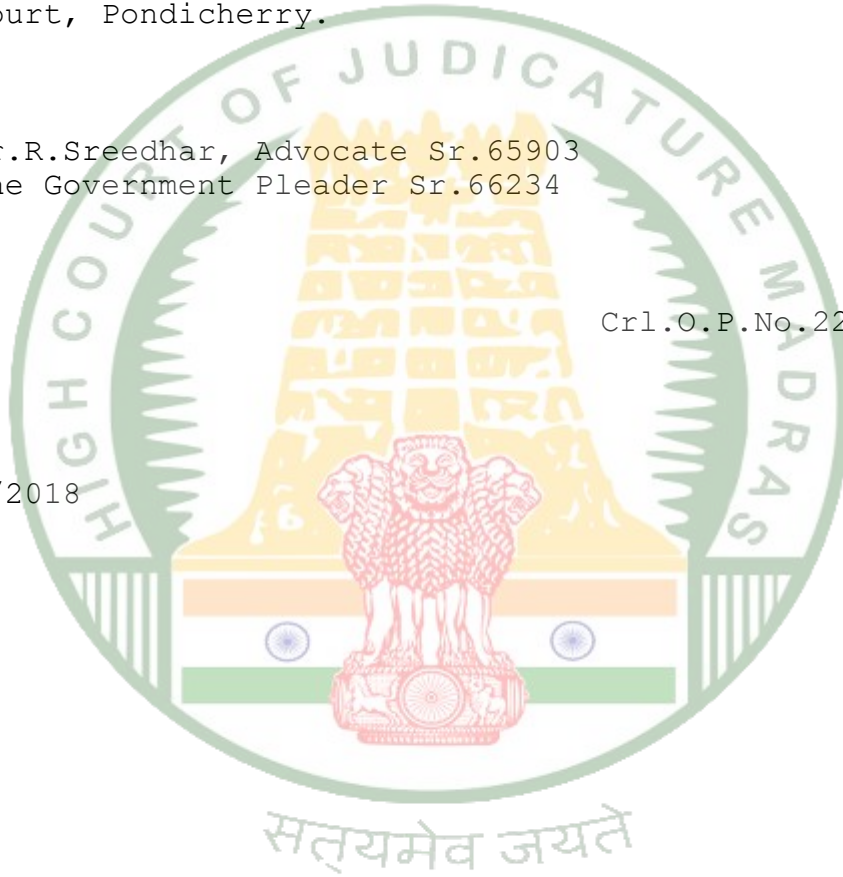
2.The Judicial Magistrate No.2,
Puducherry.

3.The Public Prosecutor,
High Court, Pondicherry.

+2cc to Mr.R.Sreedhar, Advocate Sr.65903
+1cc to the Government Pleader Sr.66234

Crl.O.P.No.22660 of 2018

ev[co]
srg 10/10/2018



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