

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.RC.No.149 of 2016

S.Dilly Babu

... Petitioner

Vs.

State of Tamil Nadu Rep. By
The Inspector of Police
H-5, New Washermenpet Police Station
Chennai - 600 081.

... Respondent

PRAYER : Criminal Revision Case filed under Section 397 and 401 Cr.P.C. to call for the records on the file of the Learned XV Metropolitan Magistrate, George Town, Chennai in Crl.M.P.No.5523/2015 on 07.01.2016 and set aside the order and direct the respondent to register a FIR on the basis of the petitioner's complaint dated 08.12.2014.

For Petitioner : Mr.M.Krishnamoorthy
For Respondent : Mr.R.Ravichandran
Government Advocate (Crl. Side)

ORDER

The present Criminal Revision is filed to set aside the order dated 07.01.2016 passed in Cr.M.P.No.5523 of 2015 on the file of the Learned XV Metropolitan Magistrate, George Town, Chennai

2. It is the case of the revision petitioner that he made a complaint before the respondent police, to take action against the Regional Transport Officer, Tondiarpet on 08.12.2014. The respondent police after receipt of the said complaint have not filed FIR, instead, they issued CSR No. to the petitioner viz., CSR No.850/CSR/H5PS/2014. Subsequently the petitioner forwarded the complaint to the Commissioner of Police, Chennai on 02.01.2015 and the same was forwarded to the Deputy Commissioner of Police, Washermanpet Range, Chennai and again the same was

forwarded to the Assistant Commissioner of Police, New Washermanpet Range, Chennai, to direct the take appropriate action under Section 154 Cr.P.C.,.

3. Despite the complaint was made before the higher officials of police department, the FIR has not registered against the RTO, Tondiarpet. Therefore, the revision petitioner filed the petition under Section 156 (3) r/w Section 200 of Cr.P.C. before the learned XV Metropolitan Magistrate, George Town, Chennai in Crl.M.P.No.5523/2015. The learned XV Metropolitan Magistrate, George Town, Chennai, even without sending any notice to obtain any report from the respondent police dismissed the petition on the ground that there is no prima facie substance found against the respondent and does not reasonably disclosed the commission of offence, to proceed with against the respondent.

4. Aggrieved against the order of the learned XV Metropolitan Magistrate, George Town, Chennai in Crl.M.P.No.5523 of 2015 dated 07.01.2016, the petitioner therein is before this Court with this present Criminal Revision.

5. The learned counsel for the petitioner would submit that the revision petitioner went to RTO Office, Tondiarpet at about 11.40 am on 08.12.2014 to obtain (FC) certificate for his friend one Mr.Kumar. At that time the petitioner had worn the special dress for sabarimala and the same time the RTO Officer Mr.G.Muniraj, entered the RTO Office, used filthy language, scolded, condemned about the wearing of the petitioner's special dress for sabarimala and abused the religion and he tried to attack and threatened the petitioner with wooden chair. Immediately the petitioner lodged complaint before the respondent police and obtained CSR No.850/CSR/H5PS/2014, after which the respondent has not registered the FIR against the said RTO Officer viz., Mr.G.Muniraj. Subsequently the petitioner forwarded the complaint to the Commissioner of Police, Chennai on 02.01.2015 and the same was forwarded to the Deputy Commissioner of Police, Washermanpet Range, Chennai and again the same was forwarded to the Assistant Commissioner of Police, New Washermanpet Range, Chennai, to direct the respondent police to take appropriate action under Section 154 Cr.P.C.,. Even after forwarding complaint to the higher officials in police department no FIR has been registered against the RTO Officer. Therefore, the petitioner preferred a petition before the learned XV Metropolitan Magistrate, George Town, Chennai in Crl.M.P.No.5523 of 2015 and the same was dismissed on 07.01.2016. Which warrants interference of this Court.

6. The learned Government Advocate (Criminal side) appearing for the respondent would submit that there is no prima facie materials available to proceed further in this case.

Therefore, the learned XV Metropolitan Magistrate, George Town, Chennai dismissed the petition.

7. Heard the learned counsel for the petitioner, the learned Government Advocate (Criminal side) appearing for the respondent and perused the materials available on record.

8. It is not in dispute that the revision petitioner lodged a complaint before the respondent police on 08.12.2014 and the respondent police has also given CSR No.850/CSR/H5PS/2014, whereas they have not filed FIR against the RTO Officer. Further the complaint and the documents produced by the revision petitioner would reveals that he made a complaint before the Commissioner of Police, Chennai on 02.01.2015 and the same was forwarded to the Deputy Commissioner of Police, Washermanpet Range, Chennai and again the same was forwarded to the Assistant Commissioner of Police, New Washermanpet Range, Chennai, to direct the respondent police take appropriate action under Section 154 Cr.P.C.,. Even after forwarding complaint to the higher officials in police department no FIR has been registered against the RTO Officer. Hence, the petitioner preferred a petition before the learned XV Metropolitan Magistrate, George Town, Chennai in Crl.M.P.No.5523 of 2015 and the same was dismissed on 07.01.2016. The learned XV Metropolitan Magistrate, George Town, Chennai, neither sent any notice to the respondent police nor sought any report for not registering the complaint and he simply dismissed the complaint on the ground that there is no sufficient cause and ground to proceed against the RTO Officer. The order passed by the learned Magistrate is against law, which warrants interference of this Court.

9. Therefore, the order passed by the learned XV Metropolitan Magistrate, George Town, Chennai in Crl.M.P.No.5523 of 2015 dated 07.01.2016 is hereby set aside and the respondent police is directed to register the FIR based on the complaint given by the petitioner and investigate the matter in accordance with law. Since the complaint is of the year 2014, the respondent police is directed to complete the investigation after registering the FIR within three months from the date of receipt of copy of this order and file the final report before the concerned jurisdictional Magistrate, on merit and in accordance with law. With the above directions the present Criminal Revision is disposed of.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The XV Metropolitan Magistrate
George Town, Chennai.

2. The Inspector of Police
H-5, New Washermenpet Police Station
Chennai - 600 081.

3. The Public Prosecutor,
High Court, Madras

+lcc to Mr.J.B.Solomon Peter Kamaladoss, Advocate, S.R.No.63369.

Cr1.RC.No.149 of 2016

rrs 12/09/2018



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