

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2018

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP.No.17702 of 2018

E.Balasubramaniam

... Petitioner

Vs

1.T.Sekar

2.The Inspector of Police
Erode Town Police (Crime Branch)
Erode.

...Respondents

Criminal Original Petition has been filed under Section 482 Cr.P.C. seeking a direction to the Judicial Magistrate No.II, Erode to entertain the private complaint filed by the petitioner and issue the process if he is satisfied that the complaint discloses the cognizable offence.

For Petitioner : Mr.S.Jayakumar

For Respondents: Mrs.Kritika Kamal.P.
Government Advocate (Crl.Side)
For R2

O R D E R

This Criminal Original Petition has been filed seeking a direction to the Judicial Magistrate No.II, Erode to entertain the private complaint filed by the petitioner and issue the process, if he satisfies that the complaint discloses cognizable offence.

2. Today, Mr.M.Govindan, Special Sub-Inspector of Police, Erode Town Police Station, Erode, is present before this Court.

3. The petitioner filed a petition under Section 156(3) Cr.P.C. before the Judicial Magistrate No.II, Erode and the same has been returned by the Judicial Magistrate on the ground that the petitioner had not complied with the requirements of law for him to take the complaint on file and issue a direction under Section 156(3) Cr.P.C., challenging which, the petitioner is before this Court.

4. Heard Mr.S.Jayakumar, learned counsel for the petitioner, who submitted that the petitioner sent the complaint by post to the Deputy Superintendent of Police, Erode and on the same day, he has marked a copy of the complaint to the Inspector of Police, Erode Town Police Station, which is sufficient compliance in law.

5. I am unable to persuade myself with the submission, because, under Section 154(1) Cr.P.C. when a complaint is given orally or in writing to the Station House Officer, he is required to register an FIR, if it discloses the commission of cognizable offence, as laid down by the Supreme Court in Priyanka Srivastava and another Vs State of U.P. and others [2015 [3] CTC 103]. Only if he refuses to register the FIR, the complainant should send the substance of accusation to the Superintendent of Police, Erode, under Section 154(3) Cr.P.C. In Priyanka Srivastava and another Vs State of U.P. and others [2015 [3] CTC 103] the Supreme Court has held that the Magistrate should not entertain any complaint under Section 156 (3) Cr.P.C., unless Sections 154(1) Cr.P.C and 154(3) Cr.P.C. have been complied with. Hence, this Court does not find any infirmity in the order passed by the Magistrate. It is open to the petitioner to follow the mandates under Sections 154(1) Cr.P.C. and 154(3) Cr.P.C. and thereafter, approach the Magistrate, afresh.

With the above observation, this petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

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To

1. The Judicial Magistrate No.II
Erode.
2. The Inspector of Police,
Erode Town Police (Crime Branch),
Erode.

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3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.Jayakumar, Advocate Sr.45543

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