

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.12.2018

CORAM

THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

Cr1.O.P. No.30565 of 2018

D.Kumar,
S/o.late Durai.

.... Petitioner

.vs.

State by:

The Inspector of Police,
P-6, Kodungaiyur Police Station,
Chennai-600 118.

.... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, directing the respondent police to register the petitioner's complaint dated 24.12.2018 in accordance with law.

For Petitioners: Mr.S.Veerabahu

For Respondents: Mr.T.Shanmugarajeswaran
Government Advocate.

ORDER

This petition has been filed to direct respondent police to register a case based on the complaint given by him to the respondent herein dated 24.12.2018.

2.Heard the learned counsel for the petitioner and the learned Government Advocate, appearing for the respondent.

3.in this regard, the Hon'ble Division Bench at Madurai has elaborately dealt with the matters of similar prayer in Cr1.O.P. (MD) No.13681 of 2018 and a batch of cases, dated 20.09.2018 and has passed certain directions. The relevant portion of the judgment is extracted hereunder:

"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.

(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 filed 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 complaint 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 notwithstanding the breach of time table furnished in Lalitha Kumari's case.

(x) The judicial Magistrates, while dealing the petitions under Sections 156(3) Cr.P.C. are directed to keep in mind the narratives 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."

4. It is seen that the petitioner has not followed the aforesaid directions. Hence, this Court is not inclined to entertain this petition under Section 482 of Criminal Procedure Code. Accordingly, this Criminal Original Petition is dismissed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

rm

To

1. The Inspector of Police,
P-6, Kodungaiyur Police Station,
Chennai-600 118.

2. The Public Prosecutor,
High Court of Madras,
Madras.

Cr1.O.P. No.30565 of 2018

nr 25/01/2019

WEB COPY