



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.03.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.R.C.(MD)No.825 of 2017
and
Crl.M.P.(MD)No.10181 of 2017

Suresh : Petitioner / Petitioner / Complainant

-Vs.-

1.E.Mohan,
Special Sub Inspector of Police,
Anjugiramam Police Station,
Anjugiramam,
Kanyakumari District.

2.Gnanasekaran,
Driver,
Susindrum Police Station,
Susindrum,
Kanyakumari District.

3.Bharath Lingam,
Special Sub Inspector of police,
Susindrum Police Station,
Susindrum,
Kanyakumari District.

4.Samson Jebathas,
Sub Inspector of Police(Special),
Anjugiramam Police Station,
Anjugiramam,
Kanyakumari District.

: Respondents / Respondents / Accused

Prayer: Criminal Revision Case is filed under Sections 397 and 401 Cr.P.C., to pass an order revising the order of the learned Judicial Magistrate No.III, Nagercoil, Kanyakumari District dated 22.09.2017 made in Crl.M.P.No.2782 of 2017 so far as treating the complaint as a private complaint under Section 200 Cr.P.C., and consequently direct the same to any of the police agency for enquiry as well as registration of a criminal case under Section 156(3) of the Criminal Procedure Code forthwith.

For Petitioner : Mr.S.Palani Velayutham

For Respondents : No appearance

O R D E R

The case of the petitioner is that he was illegally taken into the custody on 10.04.2017 by the respondent police men and was assaulted in the police station. Thereafter, it is alleged that a case in Crime No.124 of 2017 was registered against him under Section 294(b), 332 and 506(ii) IPC and was remanded to custody. It is the case that he was in the hospital for injuries suffered by him and thereafter, he was released on bail. After he was released on bail, the petitioner filed a private complaint in CrI.M.P.No.2782 of 2017 before the learned Judicial Magistrate No.III, Nagercoil, against the respondents / police men, in which, the Court passed the following order on 22.09.2017.

"Heard. Records perused. Though the petitioner has sought for a direction from this Court to CBCID Inspector to register case against the respondents, this Court does not have jurisdiction to do so. But on perusal of records, this Court is inclined to treat this petition U/s.156(3) Cr.P.C., as a private complaint U/s.200 Cr.P.C.. Hence for recording sworn statement of complainant. Call on 02.11.2017."

Challenging the said order, the petitioner has filed the present Criminal Revision Case.

2. Heard Mr.S.Palani Velayutham, learned counsel appearing for the petitioner.

3. The learned counsel appearing for the petitioner submitted that the petitioner was taken into illegal custody and was beaten by the respondents and thereafter, they foisted a false case in Crime No.124 of 2017.

4. In the opinion of this Court, Magistrate cannot give a direction to the CBCID under Section 156 (3) Cr.P.C., in view of the judgment of the Supreme Court in CBI vs. State of Rajasthan [2001 (3) SCC 333]

5. The learned counsel appearing for the petitioner submitted that some other police also may be directed to investigate the allegations of the petitioner.

6. As regards this request, it is seen that the Magistrate has decided to treat the petition in CrI.M.P.2782 of 2017 as a private complaint, so as to, give an opportunity to the petitioner to establish his case. It is a trite that the Magistrate cannot order police to investigate under Section 156(3) Cr.P.C., mechanically, in view of the Judgment of the Supreme Court in Mrs.Priyanka Srivastava and another Vs. State of U.P. reported in 2015(4) Scale 120.



7. This Court does not find any infirmity in the order dated 22.09.2017 passed by the learned Judicial Magistrate No.III, Nagercoil, warranting interference.

8. The Magistrate shall proceed to record the sworn statement of the complainant and his witnesses in accordance with law and either Act under Section 203 Cr.P.C., or Section 204 Cr.P.C., as the case may be.

9. In the result, this Criminal Revision Case is devoid of merits and the same is dismissed. Consequently, the connected Miscellaneous Petition is dismissed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To
The Judicial Magistrate No.III,
Nagercoil, Kanyakumari District.

Order made in
Cr1.R.C.(MD)No.825 of 2017

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AM/GT/SAR 4/02.04.2018/3P/2C