



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.06.2018

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WEB COPY

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

Cr1.O.P.(MD)No.9756 of 2018

C.Murugesan

... Petitioner

-Vs-

State Through
The Sub-Inspector of Police,
Thattarmadam Police Station,
Thoothukudi District.

... Respondent

PRAYER: Petition is filed under Section 482 of Code of Criminal Procedure, to call for records relating to the order passed by the learned Judicial Magistrate, Sattankulam, in Cr.M.P.No.2443 of 2018, dated 22.03.2018 and set aside the same.

For Petitioner : Mr.T.A.Ebenezer

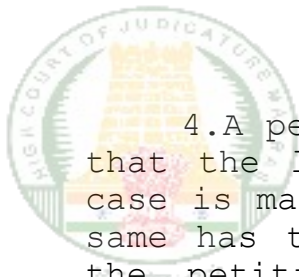
For Respondent : Mr.K.Suyambulinga Bharathi
Government Advocate(Criminal side)

O R D E R

This Criminal Original Petition has been filed to call for records relating to the order passed by the learned Judicial Magistrate, Sattankulam, in Cr.M.P.No.2443 of 2018, dated 22.03.2018 and set aside the same.

2.The learned counsel for the petitioner submitted that the respondent police has no power to collect evidence or to investigate the case without registering an FIR. The learned Magistrate ought not to have directed the respondent to conduct preliminary enquiry when the complaint itself reveals cognizable offences. Therefore, challenging the order dated 22.03.2018 made in Cr.M.P.No.2443 of 2018, the petitioner has come forward with the present Criminal Original Petition.

3.The learned Government Advocate (Criminal side) submitted that the Court below has directed the respondent police to conduct preliminary enquiry on the complaint made by the petitioner and if prima facie case is made out, the same has to be registered and investigated. Pursuant to the said order, the respondent had conducted the enquiry and closed the complaint. Therefore, the contentions of the petitioner are liable to be rejected.



4.A perusal of the order passed by the Court below would reveal that the learned Magistrate has observed that if any prima facie case is made out on the complaint preferred by the complainant, the same has to be registered and investigated. The grounds raised by the petitioner in the present Criminal Original Petition that without conducting the enquiry, the case has to be registered cannot be accepted in the light of the decision reported in 2014 (2) SCC 1 [Lalita Kumari Vs. Government of Uttar Pradesh and Others], wherein it has been held as follows:-

'120.5.The scope of preliminary inquiry is not to verify the veracity or otherwise of the information received but only to ascertain whether the information reveals any cognizable offence.'

5.In view of the above said judgment of the Hon'ble Apex Court, the respondent police has to conduct preliminary enquiry as to whether the information reveals any cognizable offence or not. Hence, the contentions of the learned counsel for the petitioner cannot be countenanced and liable to be rejected and accordingly, this Criminal Original Petition is dismissed. It is open to the petitioner, if necessary, to agitate his rights before the concerned Court under the provisions of law.

Sd/-

Assistant Registrar(CS-II)

/True copy/

Sub Assistant Registrar

To

1.The Judicial Magistrate,
Sathankulam.

2.The Sub-Inspector of Police,
Thattarmadam Police Station,
Thoothukudi District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.T.A.Ebenezer, Advocate, SR.No.68591.

Cr1.O.P.(MD) No.9756 of 2018
18.06.2018

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