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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 23.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) No.18342 of 2018

Kathiresan

: Petitioner

Vs.

1.The Superintendent of Police,
Pudukkottai District, Pudukkottai.

2.The Deputy Superintendent of Police,
Illuppur Sub-Division,
Pudukkottai District.

3.The Sub-Inspector of Police,
Karaiyur Police Station, Karaiyur,
Pudukkottai District.

: Respondents

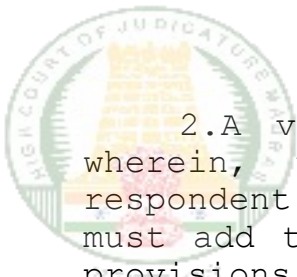
PRAYER: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the third respondent passed in communication dated 18.07.2018 and quash the same and direct the respondents to add Sections 392 and 395 IPC in Crime No.31 of 2018 on the file of the third respondent besides Sections 147, 148, 341, 294(b), 323, 324, 506(ii) and 379 IPC based on the petitioner's representation dated 07.07.2018.

For Petitioner : Mr.T.M.Madasamy

For Respondents : Mr.B.Bhagawathi
Government Advocate

ORDER

This Writ Petition has been filed challenging the communication dated 18.07.2018 made by the third respondent to the petitioner. The petitioner gave a complaint on 23.04.2018 to the third respondent and based on the complaint, First Information Report was registered on 24.04.2018 in Crime No.31 of 2018 for the offence under Sections 147, 148, 341, 294(b), 323, 324, 506(ii) and 379 IPC.



2.A very strange procedure has been followed in this case, wherein, the petitioner makes a representation to the third respondent on 07.07.2018 to the effect that the third respondent must add the Sections 392 and 395 IPC in addition to the existing provisions that have been shown in the First Information Report.

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3.The third respondent, who is the Sub-Inspector of Police, Karaiyur Police Station and who is supposed to know the provisions of Code of Criminal Procedure, has followed a new method, wherein, he replies to the representation made by the petitioner and informs the petitioner through his communication, dated 18.07.2018 that he is not in a position to add Section 392 and 395 IPC to the existing FIR and as per his investigation the offences under Sections 147, 148, 341, 294(b), 323, 324, 506(ii) and 379 IPC has only been made out and he will file final report in the said provisions.

4.This Court strongly contempts the attitude of the petitioner in making representation to the third respondent and a callous manner in which the third respondent replies to the representation and justifies and gives reasons as to why he cannot add the above said two provisions as requested by the petitioner. This is a procedure which is unknown to law.

5.Under the Code of Criminal Procedure, once investigation is taken up by the investigating agency, the manner in which it has to be done, is completely left within the realm of the Investigating Officer and the Investigating Officer has to submit either final report or closure report under Section 173 Cr.P.C. During the interregnum, the Investigating Officer has no business to reply to representations made by either defacto complainant or by anyone.

6.The third respondent was present in the Court and when this Court questioned him as to why such procedure was adopted by him, the said officer feigned ignorance and stated that he will not repeat the same in future. The statement of the third respondent is recorded by this Court.

7.If the defacto complainant is not satisfied with manner of investigation, he has to approach this Court under Section 482 Cr.P.C seeking for necessary directions. In this case the defacto complainant chose to make representation to the third respondent. The third respondent out of sheer ignorance has chosen to reply to the representation made by the petitioner. Both the representation made by the petitioner and a response made by the third respondent are procedures which are unknown to law. The impugned communication dated 18.07.2018 is illegal and the same is hereby set aside.

8.There will be a direction to the third respondent to investigate the case based on the materials available on record and also based on the statements given by the witnesses and ultimately file a final report before the competent Court. After filing of final report, if the petitioner as a defacto complainant has any grievance, he has to workout his remedy in the manner known to law.



9. With the above directions, this Writ Petition is disposed of.
No costs.

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/True Copy/

Sd/-

Assistant Registrar (CS-II)

Sub Assistant Registrar (CS-III)

To

1. The Superintendent of Police,
Pudukkottai District,
Pudukkottai.
2. The Deputy Superintendent of Police,
Illuppur Sub-Division,
Pudukkottai District.
3. The Sub-Inspector of Police,
Karaiyur Police Station, Karaiyur,
Pudukkottai District.

+1CC to Mr. T. M. Madasamy, Advocate, SR.No.79806

+1CC to the Special Government Pleader SR.No.80280

W.P. (MD) No.18342 of 2018
23.08.2018

GNS

ES/SKN/RSK/SAR 3/27.09.2018/3P/6C