IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2019

CORAM :

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.6885 of 2016

M.Venkatraman ... Petitioner

Vs.

1.The District Collector,
Krishnagiri District,
Krishnagiri.

2.The Superintendent of Police,
Krishnagiri District,
Krishnagiri.

3.The Tahsildar,
Pochampalli Taluk,
Krishnagiri District.

4.The Inspector of Police,
Pochampalli Police Station,
Krishnagiri District.

5.Chinnasamy

6.Kanakaraj

7.Madhammal

8.Senthilkumar

9.Alagesan

10.Vignesh

11.Saminathan

12.Perumal

13.Ravi

14.Veerabadhran

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15.Veerabadhran

16.Ramesh

17.Umasankar ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondents 1 to 3 to take appropriate action against the respondents 5 to 17 for conducting illegal Katta Panchayat and ex-communicating the petitioner and his family from the village and directing the 4th respondent to register the FIR against the respondents 5 to 17 by setting the criminal law in motion and to investigate the same to file a final report.

For Petitioner : Mr.C.Prabakaran

For Respondents : Mr.M.Mohamed Riyaz
Additional Public Prosecutor for RR1-4

O R D E R

This writ petition has been filed to direct the respondents 1 to 3 to take appropriate action against the respondents 5 to 17 for conducting illegal Katta Panchayat and ex-communicating the petitioner and his family from the village and to direct the 4th respondent to register an FIR against the respondents 5 to 17 by setting the criminal law in motion and to investigate the same and file a final report.

2.Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents 1 to 4.

3.In view of the Judgment of the Hon'ble Division Bench of this Court in Crl.O.P.(MD)No.13681 of 2018 and batch of cases, dated 20.09.2018, the petition of this nature is not maintainable before this Court. The relevant portion of the said order is extracted herewith:-

> "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

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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 compliant 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 not withstanding 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."

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However, liberty is granted to the petitioner to work out his remedy in accordance with the guidelines given by the Hon'ble Division Bench in the decision referred supra.

4. With the above direction, this Writ Petition is disposed of. No Costs.

Sd/-
Assistant Registrar(CS-VI)

//True copy//

Sub Assistant Registrar

ssr/vsi2

To

1.The District Collector,
Krishnagiri District,
Krishnagiri.

2.The Superintendent of Police,
Krishnagiri District,
Krishnagiri.

3.The Tahsildar,
Pochampalli Taluk,
Krishnagiri District.

4.The Inspector of Police,
Pochampalli Police Station,
Krishnagiri District.

5.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.C.Prabakaran, Advocate SR.No.17340

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VG-II(CO)
GMY(12/04/2019)

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