

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2019

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P No.20080 of 2019

K.K.Sivakumar

...Petitioner

Vs.

1. The Assistant Commissioner of Police,
South Range (L &O)
Salem City.
 2. The Inspector of Police,
Shevapet Police Station,
Shevapet
Salem.
 3. The Inspector of Police,
Central Crime Branch,
Salem City.
- ...Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying to direct the 3rd respondent to register FIR on the complaint dated 28.11.2018 and conduct investigation as per the order dated 15.03.2018 passed in CMP No.1859 of 2019 on the file of the learned Judicial Magistrate No.III, Salem.

For Petitioner: Mr.M.Deivanandam
For Respondents: Mr.M.Mohamed Riyaz,
Additional Public Prosecutor

ORDER

This petition has been filed for a direction to the respondent police to register an FIR based on the complaint given by the petitioner on 12.03.2019.

2. It is seen from the records that the petitioner had approached the Judicial Magistrate No.III, Salem by filing an application under Section 156(3) of Cr.P.C seeking for a direction to the respondent police to register an FIR. The learned Magistrate passed the following order on 15.03.2019:

Complainant present. On perusal of records this court is thinks that about the allegation investigation is necessary. Therefore, this court is forwarded this complaint to the Inspector of Police of Shevapet. For investigation and file a report or of before 27.04.19.

3. Subsequently, the learned Magistrate reminded the respondent police about the earlier order passed, by his communication dated 18.03.2019.

4. The respondent police, even without registering an FIR, had proceeded to conduct an enquiry and had closed the complaint and informed the same to the learned Magistrate, by his report dated 15.06.2019. The Court below had put on notice the petitioner, about this development and the petitioner had filed a protest petition before the Court below and the same is now pending enquiry.

5. From the above, it is clear that neither the police nor the Court has followed the correct procedure. The respondent police who was supposed to register an FIR and investigate the case and file a report before the Court, proceeded to conduct an enquiry even without registering an FIR. The Court below, on receiving the report from the police, has entertained a protest petition, even though no FIR was registered by the respondent police.

6. The learned counsel for the petitioner submitted that the entire procedure followed both by the police and the Court is illegal and the same requires the interference of this Court.

7. Heard the learned Additional Public Prosecutor appearing on behalf of the respondent police.

8. The Court below is directed to go through the report filed by the respondent police along with the complaint filed by the petitioner. If it finds that there is a cognizable offence made out, it shall direct the respondent police to register an FIR and proceed further with the investigation. The Court below is reminded by this Court to follow the correct procedure of law and proceed further in this matter.

9. This Criminal Original Petition is disposed of with the above direction.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1. The Judicial Magistrate No.III,
Salem
2. Do Thro The Chief Judicial Magistrate, Salem.
3. The Assistant Commissioner of Police,
South Range (L &O)
Salem City.
4. The Inspector of Police,
Shevapet Police Station,
Shevapet
Salem.
5. The Inspector of Police,
Central Crime Branch,
Salem City.
6. The Public Prosecutor
High Court of Madras.

+1cc to Mr.M.Deivanandam, Advocate sr.64031

CRL.OP.No.20080of 2019

rsy(co)
nr 16/09/2019



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