

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.08.2019

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Cr1.O.P No.21333 of 2019

Kancherla Bala Saroja Bindu Rekha

... Petitioner

.Vs.

1. The Circle Inspector,
Yanam Circle, Yanam.

2. The Station House Officer,
Yanam Police Station, Yanam.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the 2nd respondent to register a case as per the order passed by the Judicial Magistrate, Yanam in unnumbered C.C.No.... of 2019 dated 22.04.2019.

For Petitioner : Mr.V.Elangovan

For Respondents: Mr.D.Bharatha Chakravarthy
Public Prosecutor, Puducherry

ORDER

This Criminal Original Petition has been filed seeking for a direction to the 2nd respondent police to register an F.I.R, based on the orders passed by the learned Judicial Magistrate, Yanam under Section 156 Clause 3 of Cr.PC.

2.The learned Public Prosecutor (Puducherry), on instructions submitted that the respondent police did not register any F.I.R and on the other hand, they proceeded to conduct an enquiry by calling the parties and have taken statements of the parties and the report is going to be placed before the learned Judicial Magistrate, Yanam. The learned Public Prosecutor submitted that the respondent police resorted to this enquiry, since they understood that a complaint under Section 200 of Cr.PC, is pending before the Magistrate and therefore, only a report has been called for under Section 202 of Cr.PC.

3. The learned counsel for the petitioner submitted that the procedure followed by the respondent police is completely in violation of the order passed by the learned Magistrate. The learned counsel submitted that when the learned Magistrate has specifically directed the Station House Officer to register an FIR, the police do not have any other alternative except to register the FIR and thereafter proceed further with the investigation. The learned counsel therefore concluded his arguments by submitting that the so called enquiry conducted by the respondent police is illegal and opposed to the order passed by the learned Judicial Magistrate.

4. This Court has carefully considered the submissions made on either side and also the materials available on record.

5. The scope of the order passed by the Magistrate should be left to be decided by the same Magistrate. A reading of the order shows that the Magistrate has specifically directed the police to register an FIR and investigate the case. The respondent police without registering an FIR has proceeded to conduct an enquiry and a report has been filed before the Court below. The legality of the report and whether the act of the respondent police in not registering an FIR, pursuant to the order passed by the learned Magistrate is legal, is something to be decided by the learned Magistrate and it is better to leave it open to enable the Magistrate to exercise his jurisdiction. This Court does not want to do the said exercise, in exercise of its jurisdiction under Section 482 of Cr.PC.

6. In the result, the learned Judicial Magistrate, Yanam, is directed to decide upon the report filed by the respondent police and whether the same is in violation of the order passed by the learned Judicial Magistrate. It is left open to the Judicial Magistrate, Yanam, to take a decision in this regard and the same shall be taken, within a period of four weeks from the date of receipt of copy of this order.
rka

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Judicial Magistrate,
Yanam.

2. The Circle Inspector,
Yanam Circle, Yanam.

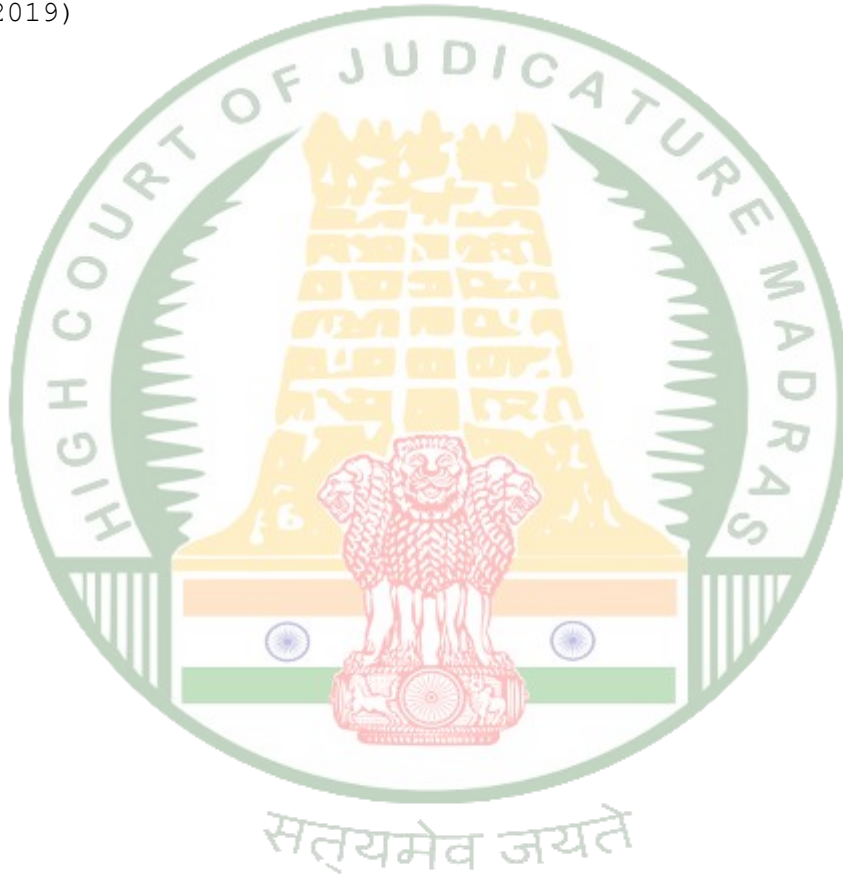
3. The Station House Officer,
Yanam Police Station,
Yanam.

4. The Public Prosecutor
Puducherry. (SR.NO.71602)

+1cc to Mr.S.V.Elangovan, Advocate, SR.No.71107

CrI.O.P No.21333 of 2019

Kak(14/10/2019)



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