

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.09.2019

CORAM

THE HONOURABLE MR. JUSTICE M.S. RAMESH

CRL.O.P.No.22204 of 2019

and

Crl.M.P.Nos.13181 & 11509 of 2019

A.Mohammed Saleem

...Petitioner

Vs.

1.M/s.RMC Travellers Inn (P) Ltd.,
represented by its Director M.Health Titto,
No.61, Annai Velankanni Church Road,
Vannathorai Junction,
Besant Nagar, Chennai - 600 900.

2.The State represented by
The Inspector of Police,
J-5, Sastri Nagar Police Station,
Besant Nagar, Chennai - 600 900.

...
Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records and set aside the order in Crl.M.P.No.690 of 2019 dated 03.08.2019 passed by the Hon'ble IX Metropolitan Magistrate, Saidapet, Chennai.

For Petitioner : Mr.R.Vivekananthan

For R1 : Mr.L.Infant Dinesh

R2 : Mr.C.Iyyapparaj

Additional Public Prosecutor

O R D E R

The order under challenge in the present application is for granting police protection in favour of the petitioner herein, in an application filed under Section 156 (3) Cr.P.C. When the petitioner herein had earlier filed a petition in Crl.O.P.No.2851 of 2018 seeking police protection before this Court, the said case came to be closed by observing that the injunction has been granted in favour of the petitioner by the City Civil Court, Chennai and if at all the petitioner is of the view that there is violation, the appropriate relief to be sought for by filing a contempt as well as seeking police protection and that the petitioner cannot properly invoke

jurisdiction of Section 482 Cr.P.C. While making such an observation, this Court had referred to the provision seeking for police protection under Section 151 Cr.P.C.

2. A comprehensive reading of the order passed in Crl.O.P.No.28521 of 2018 goes to show that the said Section was sought to be incorporated therein under Section 151 C.P.C. and not Section 151 Cr.P.C., which is an inadvertent mistake that had crept in. When the petitioner had subsequently sought for police protection through Crl.O.P.No.9619 of 2019 an observation was made that if any application is made before the learned Metropolitan Magistrate, the same shall be considered in accordance with law.

3. In this background, the petitioner had filed an application before the learned IX Metropolitan Magistrate, Saidapet, Chennai to invoke Section 156 (3) Cr.P.C. and sought for police protection. The learned Magistrate also had, vide impugned order dated 03.08.2019, granted police protection to the petitioner.

4. At the outset, the order itself is without jurisdiction, since the scope of Section 156 (3) Cr.P.C. is very limited to the extent of granting a direction to the police officers to investigate the cognizable offence. As per Section 156 (3) C.P.C. any Magistrate empowered under Section 190 may order the police officer to conduct the investigation on the complaint made and by directing the police officer to grant a police protection, would not be the scope of 156 (3) C.P.C. As such, the order itself is liable to be set aside in this ground.

5. In this background, it is seen that the petitioner had filed a suit in O.S.No.1409 of 2017 seeking for mandatory injunction and by an order of interim injunction is also granted by the learned V Additional Judge, City Civil Court, Chennai, which is said to be set in force, as on date. As already observed by this Court in the earlier order in Crl.O.P.No.28521 of 2018, the appropriate remedy open to the petitioner would be to invoke Section 151 C.P.C. seeking for police protection, if they choose to do so.

6. With this liberty, this Court is of the view that the earlier order passed by the Metropolitan Magistrate, Saidapet, Chennai under Section 156 (3) Cr.P.C. cannot be sustainable, for the reasons set forth.

With the above observation, the Criminal Original Petition stands allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

- 1.The IX Metropolitan Magistrate,
Saidapet, Chennai.
2. do Thro The Chief Metropolitan Magistrate,
Chennai.
- 3.The Inspector of Police,
J-5, Sastri Nagar Police Station,
Besant Nagar, Chennai - 600 900
- 4.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.R.Vivekananthan, Advocate sr.81998

CRL.O.P.No.22204 of 2019
and
Crl.M.P.Nos.13181 & 11509 of 2019

rk(co)
nr 16/10/2019