



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2019

CORAM

THE HONOURABLE Mr.JUSTICE P.RAJAMANICKAM

CRL.O.P.No.30249 of 2019

K.Kavitha

...Petitioner

Versus

1.The Commissioner of Police,
Vepery, Chennai-600 007.

2.The State,
Rep. by the Inspector of Police,
T-7, Tank Factory Police Station,
Avadi, Chennai-600 154.

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the respondents to take further action of the petitioner complaint dated 25.07.2019 on the file of the 2nd respondent police within a stipulated period of time as may be fixed by this Court.

For Petitioner : M/s.B.Aparna

For Respondents: M/s.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to direct the respondents to take further action on the complaint of the petitioner dated 25.07.2019 on the file of the 2nd respondent.

2. The learned counsel for the petitioner has submitted that the petitioner has already lodged a complaint before the 2nd respondent on 25.07.2019 and since the 2nd respondent has not taken any action on the said complaint, she also sent a complaint to the 1st respondent and thereafter also no action was taken on her complaint and hence, she filed a petition under Section 156(3) of Cr.P.C in the month of August 2019 before the



learned Judicial Magistrate, Ambattur. She further submitted that the learned Judicial Magistrate, Ambattur after keeping the said petition for three months, he passed an order on 05.11.2019, stating that no affidavit filed along with the petition. Hence, he requests to direct the 2nd respondent to register FIR based on the complaint of the petitioner dated 25.07.2019.

3. Per contra, the learned Additional Public Prosecutor appearing for the respondent has submitted that since the petitioner has not filed affidavit, as per the direction of the Hon'ble Supreme Court, the learned Judicial Magistrate, Ambattur has rightly closed the said petition by giving a liberty to the petitioner to file a fresh petition, but inspite of filing fresh petition along with affidavit, the petitioner has rushed to this Court and hence, this petition is not maintainable.

4. It is seen from the typed set of papers filed by the petitioner that the learned Judicial Magistrate, Ambattur has closed the petitioner's petition in CrI.M.P.No.4308 of 2019 on 05.11.2019 on the ground that the petitioner has not filed affidavit in support of the petition as per the directions of the Hon'ble Supreme Court and further liberty also given to the petitioner to file fresh petition along with an affidavit. Therefore, the petitioner has to file a fresh petition along with the affidavit, as directed by the Hon'ble Supreme Court and instead of that she cannot approach this Court. Hence, this petition is liable to be quashed.

5. In the result, this Criminal Original Petition is dismissed. It is open to the petitioner to file a fresh petition before the learned Judicial Magistrate, Ambattur along with affidavit, as directed by the Hon'ble Supreme Court the case of Priyanka Srivastava if any such petition is filed, the learned Judicial Magistrate, Ambattur shall pass orders thereon within 15 days, either issuing directions or dismissing the said petition as directed by this court in Sugesan Transport Pvt Ltd. Vs. The Assistant Commissioner of Police [2016-2 L.W (CrI) 499] and upheld by the Division Bench in G.Prabakaran Vs. The Superintendent of Police, Thanjavur District (CrI.O.P.(MD) No.13681 of 2018 batch).

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate Court,
Ambattur.

2.The Commissioner of Police,
Vepery, Chennai-600 007.

3.The Inspector of Police,
T-7, Tank Factory Police Station,
Avadi, Chennai-600 154.

4.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.B.Aparna, Advocate SR.102895

CRL.O.P.No.30249 of 2019

BS (CO)
CB(23/01/2020)