



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Monday, the Eighteenth day of March Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL MP (MD) No.2400 of 2019

IN

CRL OP (MD) No.1878 of 2018

K.BALASUBRAMANIAN

... PETITIONER/PETITIONER

Vs

1 THE SUPERINTENDENT OF POLICE
VIRUDHUNAGAR DISTRICT,
VIRUDHUNAGAR

2 THE SUB INSPECTOR OF POLICE,
MALLANKINARU POLICE STATION,
VIRUDHUNAGAR DISTRICT,
VIRUDHUNAGAR

... RESPONDENTS/RESPONDENTS

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to recall the order passed Crl.OP(MD)No.1878 of 2018 dated 19.04.2018 by this Honourable Court.

Prayer in CRL OP(MD). 1878/ 2018 :

To direct the 1st respondent to issue necessary direction to the 2nd respondent to register the case based on my complaint made to the 1st respondent on 14.12.2017

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of MR.T.THIRUMURUGAN, Advocate for the petitioner and of MR.A.P.G.OHM CHAIRMA PRABHU, Government Advocate (Criminal Side) on behalf of the Respondents, the court made the following order:-

The petitioner initially made a complaint before the second respondent police on 19.08.2013, alleging that one Mutharasi and her husband by name Rathinam attacked the petitioner brutally. Due to which, he sustained injuries and admitted in the hospital and on the same day, the said Mutharasi also filed a complaint. The respondent police assigned C.S.R. For objecting the complaint filed by the said Mutharasi, the petitioner again sent a representation dated 20.08.2013 not to process the complaint and informed the Law Enforcing Agency that the complaint filed by Mutharasi is false one.



Again the petitioner sent reminder on 14.12.2017. Since no action was taken, he filed Crl.O.P.(MD)No.1878 of 2018 before this Court. This Court, by its order dated 19.04.2018, closed the aforesaid petition, recording that the complaint of the petitioner was closed as mistake of fact. Aggrieved by the same, the present recall petition is filed.

2.A perusal of the records shows that the first complaint is 19.08.2013 and the second complaint is 20.08.2013. However, the Law Enforcing Agency has not assigned C.S.R.No., in respect of the alleged second complaint on 20.08.2013. However, this Court by order dated 19.04.2018 rightly closed the petition, recording that the case was referred as mistake of fact and no complaint was registered by the Law Enforcing Agency in respect of second complaint. Hence, he filed recall petition, which is not maintainable, in view of the bar under Section 362 Cr.P.C., and only remedy available to the petitioner is to file a criminal original petition with regard to the second complaint in the manner known to law. If at all the petitioner aggrieved by the order dated 19.04.2018, he can file an appeal before the Hon'ble Apex Court.

3.Accordingly, this petition is dismissed. However, liberty is granted to the petitioner to workout his remedy before the appropriate forum in the manner known to law.

sd/-
18/03/2019

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE SUPERINTENDENT OF POLICE
VIRUDHUNAGAR DISTRICT,
VIRUDHUNAGAR

2 THE SUB INSPECTOR OF POLICE,
MALLANKINARU POLICE STATION,
VIRUDHUNAGAR DISTRICT, VIRUDHUNAGAR

3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to MR.T.THIRUMURUGAN Advocate SR.No.5204

ORDER IN
CRL MP(MD) No.2400 of 2019
IN
CRL OP(MD) No.1878 of 2018
Date :18/03/2019