



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

Cr1.O.P.[MD]No.5888 of 2019

Mayandi

: Petitioner/Petitioner

/Vs./

1.Thavamani
2.Kavitha
3.Murugan
4.Indhirani
5.Pandi
6.Uppuliyan @ Moorthy
7.Jeyapandian
8.The Inspector of Police,
District Crime Branch,
O/o. Superintendent of Police,
Theni, Theni District.

: Respondents/Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., to set aside the order dated 14.12.2018 in Cr.M.P.No.6215 of 2018 on the file of the Judicial Magistrate, Theni and direct the 8th respondent to register the case based on the petitioner's complaint dated 27.06.2018.

For Petitioner : Mr.S.A.Ajmal Khan

For R-8 : Mr.V.Neelakandan
Additional Public Prosecutor

ORDER

This petition has been filed to set aside the order dated 14.12.2018 passed in Cr.M.P.No.6215 of 2018 by the learned Judicial Magistrate, Theni and to direct the eighth respondent to register a case based on the petitioner's complaint dated 27.06.2016.

2. The case of the petitioner is that he has preferred a private complaint before the learned Judicial Magistrate, Theni, in Cr.M.P.No.6215 of 2018 alleging that the false document has been created upsetting the petitioner's title to certain property situated in Vathalagundu, Dindigul District, but the petitioner resides in Theni, and when he came to know of this, he challenged the same. Thereafter life threats were issued to the petitioner at Theni. It was in these circumstances, a private complaint was laid. The learned Magistrate is appeared to have been obtained a



statement from the concerned Station House Officer (SHO) and passed an order closing the petition filed by the petitioner. The order of the Magistrate reads thus:-

"Consent station house officer reply recorded. Today perused. Intimate counsel defacto complainant. Objection if any filed u/s 200 Cr.P.C., petition. Hence, this Crmp is closed."

3. Heard the learned Additional Public Prosecutor appearing for the official respondent.

4. The learned counsel for the petitioner submitted that the petitioner discloses commission of offence and to support the same, he has also produced necessary materials. Now it is not known what the statement of the Station House Officer contains and why the Magistrate has closed the petitioner's complaint with a non-speaking order.

5. The learned Additional Public Prosecutor submitted that the property is situated in Vatalagundu and the alleged fabrication of the document and its registration have taken place at Vatalagundu and necessarily only the Magistrate at Nilakottai has power to entertain the complaint. He also relied on Section 177 Cr.P.C., which supports his submission.

6. The learned counsel for the petitioner would now state that the complaint not only alleges about the offence that has taken place within the jurisdiction of Vatalagundu but also alleges about the offence under Section 506 (ii) IPC at the petitioner's house in Theni.

7. Plainly speaking it is not known that why the Magistrate has closed the complaint. When the complaint was presented under Section 190 Cr.P.C., the Magistrate may either refer it for investigation under Section 156 (3) Cr.P.C., or may proceed to take cognizance after following Section 200 Cr.P.C. In either case, it may have to be a speaking order. If the Court does not want to resort to Section 156 (3) Cr.P.C., and does not find material enough to take cognizance under Section 200 Cr.P.C., then it only can dismiss the complaint, but not close the same. If however the Court finds that purely the Court has no jurisdiction in the matter, only it may have to return the complaint. Whichever way one looks at the impugned order, the order is so cryptic that one may not be able to understand the mind of the Court. The Court particularly, the learned Magistrate appeared to have acted on the statement from the Station House Officer.

8. At the end of the day, the right of the petitioner gets affected and it is imperative that the petitioner must be informed about the contents of the report of the Station House officer, but he was neither informed about the same. In conclusion, this Court



considers it appropriate to set aside the impugned order dated 14.12.2018 in Cr.M.P.No.6215 of 2018 on the file of the Judicial Magistrate, Theni, and the matter is remitted back to the learned Judicial Magistrate, Theni. The learned Magistrate is now directed to apply its mind to the matter and to deal with it as provided by law through a speaking order.

9. Accordingly, this Criminal Original Petition is allowed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Judicial Magistrate, Theni.

2.The Inspector of Police,
District Crime Branch,
O/o. Superintendent of Police,
Theni, Theni District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.S.A.AJMAL KHAN, Advocate SR-62191.

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