



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **26.04.2019**

CORAM:

THE HONOURABLE **MR. JUSTICE N. SESHASAYEE**

Crl.O.P.[MD]No.6083 of 2019

WEB COPY

Subair Ameer

: Petitioner /Petitioner

/Vs./

1.Sahul Hameed

2.Rabeek

3.Jamal Mohammed

4.Mohammed Barook

5.Maraikka @ Moahmmmed Noogu : 1 to 5 Respondents/Proposed Accused

6.The Inspector of Police,

Mimisal Police Station,

Pudukkottai District. : 6th Respondent/6th Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., to set-aside the return order dated 28.12.2018 and to direct the Learned Judicial Magistrate, Aranthangi, to take the petition in CR.M.P.SR.No.8137 of 2018 dated 30.10.2018 on his file and dispose the same on merits in accordance with law.

For Petitioner : Mr.M.Suresh

For R-6 : Mr.V.Neelakandan
Additional Public Prosecutor

ORDER

This petition is filed to set-aside the return order dated 28.12.2018 and to direct the Learned Judicial Magistrate, Aranthangi, to take the petition in CR.M.P.SR.No.8137 of 2018 dated 30.10.2018 on his file and dispose the same.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor.

3. The learned counsel appearing for the petitioner submitted that the petitioner has preferred a private complaint before the Magistrate alleging that the private respondents herein have broken open his textile shop and removed textile goods worth of rupees One Lakh. He has also indicated that the said occurrence had taken place in the night of 14.10.2018 at about 10.00 p.m., and the accused are named in the complaint. The complaint was returned by the Magistrate on the ground that the details of the stolen goods have not been indicated and the photo of the place of occurrence is also not mentioned. The complaint was again reported with an



endorsement by the petitioner's counsel that the details are provided in Paragraph No.4 of his complaint. Still the learned Magistrate chose to return it on the ground that the details are not provided.

4. Considering the facts provided, the complaint on the face of it discloses commission of cognizable offence and there are certain basic facts provided therein. If the Magistrate were to refer the matter to the police under Section 156 (3) Cr.P.C., then it is for the police to investigate further details of the same. To expect the petitioner to provide the details of each item of the textile goods that he has lost would be extremely difficult and that ground stated for returning the complaint appears unreasonable. The order dated 28.12.2018 returning the complaint by the learned Judicial Magistrate, Aranthangi, is herein quashed. The matter is remanded back to the Judicial Magistrate, Aranthangi. He shall now apply his mind as to the facts and take proceed as per law.

5. With the above direction, this Criminal Original Petition is allowed. Registry is directed to return the original complaint.

Sd/-

Assistant Registrar

/ True Copy /

Sub Assistant Registrar(CS-)

sm

To

1.The Judicial Magistrate, Aranthangi.

2.The Inspector of Police,
Mimisal Police Station,
Pudukkottai District.

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

Copy To:

The Section Officer, Criminal Section,
Madurai Bench of Madras High Court, Madurai. (2 Copies)

(Note: Registry is directed to return the original complaint.)

+1 CC to M/s.M.SURESH, Advocate (SR-62871[F] dated 26/04/2019)

Crl.O.P.[MD]No.6083 of 2019
26.04.2019