



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **29.04.2019**

CORAM :

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

Crl.O.P.(MD)No.6326 of 2019

WEB COPY

Muthukumar

... Petitioner/Complainant

/Vs./

State represented by
The Inspector of Police,
Avudaiyarkovil Police Station,
Pudukkottai District.

... Respondent/Respondent

Prayer: Petition - filed under Section 482 of the Criminal Procedure Code, to set aside the order dated 22.03.2019 passed by the Judicial Magistrate Court, Aranthangi, and consequently direct the Judicial Magistrate Court, Aranthangi to number the unnumbered Cr.M.P.No. of 2019 on the file of the Judicial Magistrate Court, Aranthangi and to decide the same on merits and in accordance with law within a time frame as fixed by this Court.

For Petitioner
For Respondent

: Mr.E.Balasubramanian
: Mr.V.Neelkandan
Additional Public Prosecutor

ORDER

This petition is filed to set aside the order dated 22.03.2019 passed by the Judicial Magistrate Court, Aranthangi, and consequently direct the Judicial Magistrate Court, Aranthangi to number the unnumbered Cr.M.P.No. of 2019 on the file of the Judicial Magistrate Court, Aranthangi and to decide the same on merits and in accordance with law.

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

3. The petitioner complains that he has preferred a private complaint before the Judicial Magistrate, Aranthangi, which is yet to be taken on record by the Magistrate. In his complaint, he has alleged that one Kovilar along with 20 other persons has ransacked the shop, removed several valuables and also caused damage to the property. The complaint was returned by the learned Magistrate on the ground that the dispute is of civil in nature. It is not known on what materials the learned Magistrate has come to this quick decision. On the complaint, if enquiry were to be undertaken under Section 200 Cr.P.C., it discloses a mischief has been played and some offence appears to have been committed.



4. This Court need not remind the learned Magistrate that there are two options open to the Magistrate either to proceed under Section 156 (3) Cr.P.C., or to apply his mind under Section 200 Cr.P.C. But then, there is no power to return the paper on an unilateral perception, that the matter is a civil nature. If the Magistrate considers to adopt the option under Section 200 Cr.P.C., necessarily the statements and other materials that comes to support the allegations in the complaint may have to be received, analyzed and assessed and if the case is made out, then he ought to take the matter to his file and if not, he has to dismiss the complaint.

5. This Court considers that the learned Magistrate has not chosen to adopt any of the two options under Cr.P.C., and therefore sets aside the order dated 22.03.2019 passed by the Judicial Magistrate Court, Aranthangi, and remands the matter to the trial Court. The trial Court is directed to apply its mind to the complaint made and to proceed either one under Section 156 (3) Cr.P.C. or Section 200 Cr.P.C. Accordingly, this Criminal Original Petition is allowed. Registry is directed to return the original order.

Sd/-

Assistant Registrar

/ True Copy /

Sub Assistant Registrar(CS-)

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To

1.The Judicial Magistrate, Aranthangi.

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

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

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

(Note: Registry is directed to return the original order)

+1 CC to M/s.E.BALASUBRAMANIAN, Advocate

(SR-64251[F] dated 30/04/2019)

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