

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 25.03.2019****CORAM:****THE HONOURABLE MR. JUSTICE P.N. PRAKASH****Cr1.O.P. (MD) No.4913 of 2014**

O.Homerlal ... Petitioner / Petitioner
vs.

1.Balamurugan
Sub Inspector of Police
Thuckalay Police Station
Now at Colachel Police Station
Kanyakumari District

2.Sudhesan
Inspector of Police
Thuckalay Police Station
Kanyakumari District

3.Head Constable 710
Thuckalay Police Station
Now at Pudhukkadai Police Station
Kanyakumari District

... Respondents / Respondents

PRAYER: Petition is filed under Section 482 Cr.P.C., to set aside the order passed in C.M.P.No.2811 of 2013 dated 14.02.2014 on the file of the Judicial Magistrate Court, Padmanabhapuram.

For Petitioner : Mr.S.C.Herold Singh

For Respondents : Mr.M.Chandrasekaran

Additional Public Prosecutor for R1 & R2

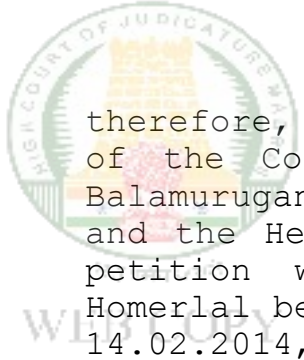
Mr.K.P.Narayanakumar for R3

O R D E R

For the sake of convenience, the parties will be referred to by their name.

2. Homerlal filed a private complaint in Cr1.M.P.No.4175 of 2009, before the learned Judicial Magistrate, Padmanabhapuram, against one Yesuraja, in which, the learned Judicial Magistrate, by order dated 31.07.2009, appears to have issued a direction under Section 156(3) Cr.P.C., to the Station House Officer, Thuckalay Police Station, to register a case based on the complaint given by Homerlal.

<https://hcservices.ecourt.gov.in/hcservices/> is the grievance of Homerlal that, despite the directions of the learned Judicial Magistrate, the Station House Officer, Thuckalay Police Station, has not registered an F.I.R. and



therefore, Homerlal filed Crl.M.P.No.2811 of 2013, under Section 12 of the Contempt of Courts Act, 1971 for taking action against Balamurugan, Sub-Inspector of Police, Sudhesan, Inspector of Police and the Head Constable 710 of Thuckalay Police Station. The said petition was dismissed for default for the non-appearance of Homerlal before the learned Judicial Magistrate, Padmanabhapuram, on 14.02.2014, aggrieved by which, Homerlal is before this Court.

4. Heard the learned counsel on either side.

5. In the opinion of this Court, the petition in Crl.M.P.No.2811 of 2013, under Section 12 of the Contempt of Courts Act, 1971 is not maintainable at all, because, the Magistrate does not have the power to initiate contempt of court proceedings under the Contempt of Courts Act, 1971. Hence, there is no point in setting aside the order dated 14.02.2014, when the very petition itself is not maintainable.

6. However, the learned Additional Public Prosecutor brought to the notice of this Court that on the complaint given by Yesuraja, a case in Thuckalay Police Station Crime No.180 of 2014 was registered on 28.02.2014, against Homerlal, for the offences punishable under Sections 294(b), 307 and 506(II) I.P.C. Similarly, on the complaint given by Homerlal, a case in Thuckalay Police Station Crime No.181 of 2014 was registered against Yesuraja, for the offences punishable under Sections 447, 294(b), 427, 324 and 506 (II) I.P.C. and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2001.

7. It appears that Yesuraja and Homerlal arrived at a compromise and filed Crl.O.P.(MD) Nos.11509 and 11510 of 2018 respectively, to quash the prosecutions in Crime Nos.180 and 181 of 2014, on the ground that they have arrived at a compromise. This Court, by separate orders dated 19.07.2018, has allowed the Criminal Original Petitions and quashed the prosecutions in Cr.Nos.180 and 181 of 2014.

8. Since the very Crl.M.P.No.2811 of 2013 filed before the learned Judicial Magistrate, Padmanabhapuram, under Section 12 of the Contempt of Courts Act, 1971, is not maintainable, this Criminal Original Petition stands dismissed. However, it is always open to Homerlal to file a private complaint, provided the allegations are not covered under Crime Nos.180 and 181 of 2014.

Sd/-

Assistant Registrar (CS III)

// True Copy //



To:
The Judicial Magistrate,
Padmanābhapuram.

+1cc to Mr.S.C.HEROLD SINGH, Advocate, SR.No. 56445
+1cc to Mr.K.P.NARAYANAKUMAR, Advocate, SR.No. 56690

Cr1.O.P. (MD) No.4913 of 2014

KRK

KK/SAR/16.04.2019/ 3P- 4C

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