



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATE: 27.06.2019

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE **V.BHARATHIDASAN**

CrI.O.P. (MD) .No.4349 of 2017

M.Joseph

... Petitioner

-Vs-

1.The State represented by
The Superintendent of Police,
Nagercoil, Kanyakumari District.

2.Madhavan

3.Sureshkumar,

4.The Assistant Superintendent of Police,
Colahel, Kanyakumari District.

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records on the file of the 4th respondent, forwarded by the learned Judicial Magistrate, Eraniel to the 4th respondent in CrI.M.P.1976/2017, dated 22.02.2017 and set aside the police notice dated 04.04.2017.

For Petitioner : Mr.S.R.Ramakrishnan

For R1 & R4 : Mr.AP.Balasubramani
Public Prosecutor

ORDER

This Criminal Original Petition has been filed challenging the summons issued by the 4th respondent directing the petitioner to appear for enquiry.

2.Earlier, the petitioner has filed a petition in CrI.M.P.No.1976 of 2017, under Section 156(3) Cr.P.C, before the learned Judicial Magistrate, Eraniel, seeking for a direction to conduct the investigation on the complaint given to the first respondent police dated 06.06.2016. The learned Judicial Magistrate, Eraniel has passed an order and the relevant portion of the same reads as follows:



.....In that case Hon'ble High Court order the further investigation the DST, CBCID Tirunelveli. But this case the petitioner seeking direction to Superintendent of Police, there is no necessity to forward this complaint to the Superintendent of police. Hence, this Complaint is forwarded to the ASP, Colachel for necessary action.

Accordingly, this complaint is hereby forwarded to ASP, Colachel. On receiving this complaint, he has to register the case if necessary and investigate the same collect necessary material evidence and get to this periodically.

The investigation shall be completed within 60 days from the date of receipt of this complaint without fail.

3. Pursuant to the directions issued by the learned Judicial Magistrate, Eraniel, the 4th respondent/The Assistant Superintendent of Police issued summons to the petitioner to appear for enquiry. Challenging the same, the present petition has been filed.

4. The learned counsel for the petitioner submitted that pursuant to the order passed by the learned Judicial Magistrate, Eraniel, the 4th respondent ought to have registered the complaint, then only he can conduct any investigation. Without registering the FIR, the 4th respondent ought not to have commenced investigation and issued summons to the petitioner.

5. The learned Public Prosecutor appearing for the respondents 1 and 4, on instructions, submitted that pursuant to the summons issued to the petitioner, he appeared before the 4th respondent and after completing the enquiry, the 4th respondent also filed a final report before the learned Judicial Magistrate, Eraniel.

6. I have considered the rival submissions and perused the records carefully.

7. On perusal of the order passed by the learned Judicial Magistrate, Eraniel, it could be seen that the learned Magistrate only forwarded the complaint to the 4th respondent for necessary action and with the further direction that on receiving the complaint, he has to register the case, if necessary, and investigate the same and collect the materials and evidence. But, there is no direction to register the FIR as alleged by the petitioner. That apart, now the enquiry has been conducted by the 4th respondent, in which the petitioner is also said to have appeared and after completing the enquiry, a report was also filed before the learned Judicial Magistrate, Eraniel.

<https://hcservices.courts.gov.in/hcservices/> 8. In the above circumstances, the contention of the petitioner cannot be accepted and I find no merit in this Criminal Original Petition, hence this petition is liable to be dismissed.



9. Accordingly, this Criminal Original Petition is dismissed.

Sd/-

Assistant Registrar (AD-I)

WEB COPY

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Judicial Magistrate
Eraniel.

2.The Superintendent of Police,
Nagercoil, Kanyakumari District.

3.The Assistant Superintendent of Police,
Colahel, Kanyakumari District.

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

Crl.O.P. (MD) .No.4349 of 2017
27.06.2019

CS(19.07.2019) 3P 5C