

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 09.03.2020
CORAM:
THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN
Crl.O.P.No.5349 of 2020

V.Mohan Raj

... Petitioner

Vs.

1. The Commissioner of Police,
Vepery, Chennai - 07.

2. State Rep. By

The Inspector of Police,
S-14, Peerkankaranai Police Station,
Chennai - 63.

.... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order passed by the Judicial Magistrate, Tambaram in Crl.M.P.No.326 of 2019 dated 21.01.2019 and direct the second respondent police to register the FIR as per Petitioner's complaint dated 21.09.2018.

For Petitioner : Mr. D.S.Ramesh

For Respondents: Mr.M.Mohamed Riyaz,
Additional Public Prosecutor.

O R D E R

This Criminal Original Petition has been filed for direction to direct the second respondent to comply with the order passed in Crl.M.P.No.326 of 2019 dated 21.01.2019, thereby directing the second respondent to conduct enquiry under Section 156(3) of Cr.P.C, whereas the second respondent without registering the FIR simply conducted an enquiry and recorded the statement from the witnesses and filed a report as directed by the learned Magistrate and closed the complaint.

2. Heard Mr.D.S.Ramesh, learned counsel appearing for the petitioner and Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor appearing for the respondents.

3. In this regard, the relevant portion of Section 156 (3) of Cr.P.C is extracted below:-

156. Police officer's power to investigate cognizable cases.

(1) Any officer in charge of a police station may,

without the order of a Magistrate, investigate any cognizable case which a court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XIII.

(2) No proceeding of a police officer in any such case shall at any stage be called in question on the ground that the case was one, which such officer was not empowered under this section to investigate.

(3) Any Magistrate empowered under section 190 may order such an investigation as above mentioned.

4. Accordingly, the second respondent ought to have directed the first respondent to register the complaint and thereafter to conduct an enquiry. In this case on hand, the second respondent without registering any case, recorded the statement from the witnesses and filed a report.

5. Therefore, the impugned order cannot be sustained in the eye of law as such and it is set aside. The second respondent is directed to register the FIR as directed by the learned Magistrate by the order dated 10.01.2019 and thereafter to file a report within a period of four weeks from the date of receipt of a copy of this order.

6. Accordingly, this Criminal Original Petition is allowed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Commissioner of Police,
Vepery, Chennai - 07.
2. The Inspector of Police,
S-14, Peerkankaranai Police Station,
Chennai - 63.

3. The Public Prosecutor,
High Court, Madras.

+1 cc to M/s.D.S.Ramesh Advocate sr20478

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