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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.NO.4956 OF 2020

A.Joseph Jaganathan

... Petitioner

.Vs.

1. The City Commissioner of Police,
EVK Sampath Salai,
Vepery, Chennai - 600 007.
2. The Assistant Commissioner of Police,
Selaiyur Police Station,
Selaiyur, Chennai - 43.
3. The Inspector of Police,
Selaiyur Police Station,
Chennai - 43.

... Respondents

PRAYER:

Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to direct the 3rd respondent police to take further action on the petitioner's complaint dated 29.01.2020 and investigate the same.

For Petitioner : Mr.S.Saravana Kumar

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

O R D E R

This Criminal Original Petition has been filed to take further action based on the petitioner's complaint dated 29.01.2020.

2. Heard Mr.S.Saravana Kumar, learned counsel for the petitioner and Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor for the respondent.

3. In view of the Judgment of the Hon'ble Division Bench of this Court in Crl.O.P.(MD)No.13681 of 2018 and batch of



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cases, dated 20.09.2018, the petition of this nature is not maintainable before this Court. The relevant portion of the said order is extracted herewith:-

"35. Accordingly, we answer the references in the following manner, while giving certain directions:

(i) Section 482 Cr.P.C. cannot be invoked in all circumstances.

(ii) It is not an alternative remedy to Section 156(3) Cr.P.C. but a repository of inherent power.

(iii) The normal course of remedy on a failure or refusal to record the information is Section 156(3) of the Code of Criminal Procedure after due compliance of Section 154 (3) Cr.P.C.

(iv) A petition can be filed invoking the inherent jurisdiction of this Court only after the completion of 15 days from the date of receipt of the information by the Station House Officer. The Registry shall not receive any petition before the expiry of 15 days aforesaid.

(v) No petition shall be entertained without exhausting the remedy under Section 154(3) Cr.P.C.

(vi) An informant can send substance of the information to the Superintendent of Police on knowing the decision of the Station House Officer in not registering the case and proceeding with the preliminary enquiry. After conducting the preliminary enquiry, the Station House Officer's decision in either registering the complaint or closing it will have to be intimated to the informant immediately and in any case not later than 7 days. Once such a decision is made, the informant cannot invoke Section 482 Cr.P.C. as the remedy lies elsewhere.

(vii) The directions issued by the Director General of Police in the circulars referred are to be strictly complied with by all the Station



To

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2. The Assistant Commissioner of Police,
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Selaiyur, Chennai - 43.

3. The Inspector of Police,
Selaiyur Police Station,
Chennai - 43.

4. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.Saravana Kumar, Advocate, S.R.No.18880

Crl.O.P.No.4956 of 2020

VD(CO)
CS/08/07/2020