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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.NO.8938 OF 2020

V.Mahalingam, M/Aged 50 years,
S/o. Late Thiru Vajaravelu,
No.2/67, M Ottaipatti Village,
Semmavalli Via,
Dharmapuri District,
Dharmapuri 635 202.

... Petitioner

Vs.

1. State Rep.by
The Superintendent of Police,
Dharmapuri District.
2. The The Inspector of Police,
Mathikonpalayam Police Station,
Dharmapuri District.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to direct the Respondent/Police to investigate and register the case on basis of the complaint dated 20.05.2020 in accordance with law.

For Petitioner : Ms.S.Sujatha
For Respondent : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor.

O R D E R

This Criminal Original Petition has been filed to direct the respondent police to register a case on the petitioner's complaint dated 20.05.2020 in CSR.No. Not known of 2020, on the file of the respondent police and investigate the same.

2. Heard Ms.S.Sujatha, 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 cases, dated 20.09.2018, the petition of this nature is not



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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 House Officers.



To

1. The Superintendent of Police,
Dharmapuri District.
2. The The Inspector of Police,
Mathikonpalayam Police Station,
Dharmapuri District.
3. The Public Prosecutor,
High Court of Madras,
Chennai.

CRL.O.P.No.8938 of 2020

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