

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 07.09.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.13844 of 2020

Sivasankaran,
S/o.Periyasamy,
Assistant Professor (Mathematics)
Arts College, Tindivanam,
At Room No.205, Sundari Lodge,
Tindivanam, Villupuram District. ... Petitioner
Vs.

The Inspector of Police,
Tindivanam Police Station,
Villupuram District. ... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, praying to set aside the order made in Crl.M.P.No.1844 of 2019 dated 14.07.2020 passed by the Judicial Magistrate No.I, Tindivanam and further direction to the learned Magistrate to take cognizance of the offences in the private complaint of the petitioner against the accused and deal with them in accordance with law.

For Petitioner : Mr.K.Balakrishnan
For Respondent : Mr.S.Karthikeyan
Additional Public Prosecutor.

O R D E R

This petition has been filed challenging the order passed in C.M.P.No.1844 of 2019 by an order dated 14.07.2020 on the file of Judicial Magistrate-I, Tindivanam thereby accepted the report submitted by the respondent and dismissed the complaint filed by the petitioner under section 203 Cr.P.C.

2. The learned counsel for the petitioner would submit that on the complaint lodged by the petitioner, the respondent did not take any action as against the accused persons and also not registered any case. Therefore, the petitioner was constrained to file private complaint under section 200 Cr.P.C, C.M.P.No.1844 of 2019.

3. On perusal of the said complaint and also after recording sworn statement and satisfied with the allegations levelled as against the counter parties in the complaint, the learned Magistrate forwarded the complaint under section 156 (3) Cr.P.C to register the same and investigate further and file a report. Even after direction issued by the learned Magistrate, the respondent without even registering the FIR

simply closed the complaint for the reason that no Prima facie case is made out to register the case as against the accused persons. On receipt of the said report, the learned Magistrate without conducting any enquiry as contemplated under Cr.P.C simply accepted the report and dismissed the complaint under section 203 Cr.P.C.

4. The learned Additional Public Prosecutor submitted that after direction issued by the learned Judicial Magistrate-I, Tindivanam, the respondent conducted detailed enquiry but did not find any Prima facie case to register the FIR. Therefore, the respondent closed the complaint and the same was reported to the learned Magistrate. The learned Magistrate on receipt of the same dismissed the complaint lodged by the petitioner under section 203 Cr.P.C.

5. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent.

6. This Court repeatedly directed the police personnels that if the direction issued under section 156(3) Cr.P.C, first, they have to register the FIR and thereafter conduct investigation. If no materials is available to proceed further, they can close the FIR in the manner known to law. Unfortunately, in the case on hand, the respondent after direction issued by the learned Judicial Magistrate-I, Tindivanam, by an order dated 12.06.2019 in C.M.P.No.1844 of 2019, without registering any FIR, conducted enquiry and submitted report by closing the complaint. On receipt of the said report, the learned Magistrate also accepted the same and dismissed the complaint under section 203 Cr.P.C. It is also curious to note that even without registering the FIR, if the respondent police submitted the report, the learned Magistrate has to conduct enquiry under section 201 and 202 Cr.P.C by examining the complainant as well as the supporting witnesses. Without conducting any enquiry as contemplated under the Cr.P.C code, the learned Magistrate accepted the report filed by the respondent and dismissed the complaint under section 203 Cr.P.C.

7. In view of the above discussion, the order passed by the C.M.P.No1844 of 2019 dated 14.07.2020 is hereby set aside. The respondent is directed to register the FIR as directed by the learned Judicial Magistrate-I, Tindivanam, by an order dated 12.06.2019 C.M.P.No.1844 of 2019 and proceed with the case in accordance with law.

8. In view of the above, this Criminal Original Petition is Allowed.

Sd/-

Assistant Registrar(CS)

//True Copy//

<https://hcservices.ecourts.gov.in/hcservices/>

Sub Assistant Registrar

mpa
To

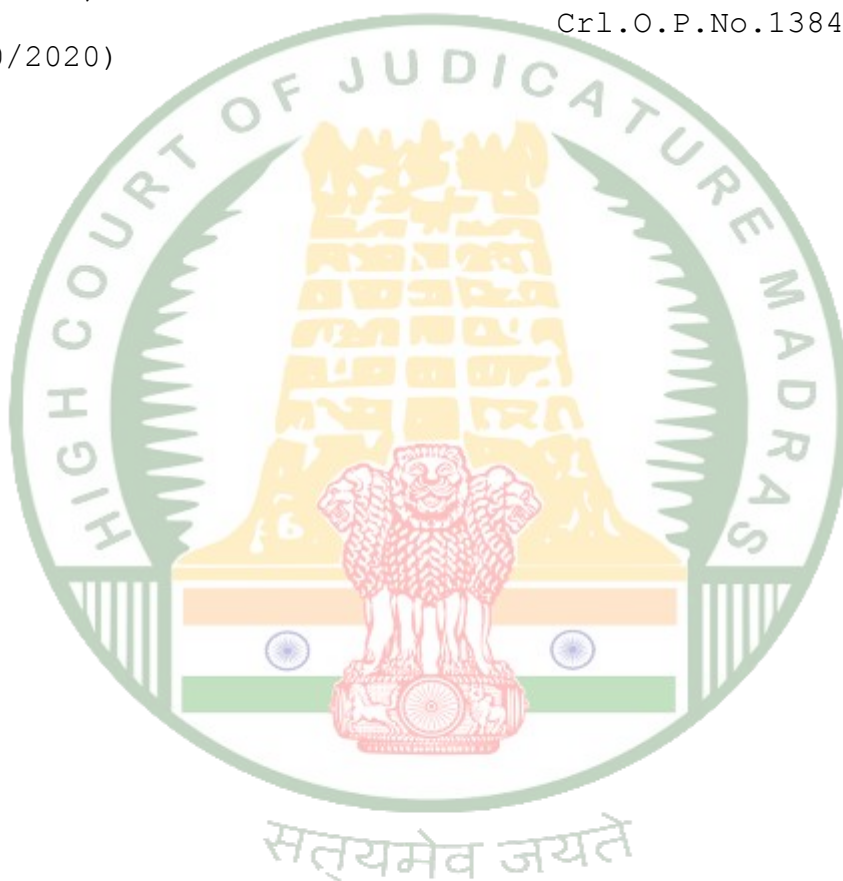
1.The Judicial Magistrate No.I, Tindivanam.

2.The Inspector of Police,
Tindivanam Police Station,
Villupuram District.

3. The Public Prosecutor,
High Court, Madras.

Cr1.O.P.No.13844 of 2020

A.SK(07/10/2020)



WEB COPY