

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.12.2020

CORAM:

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Crl.O.P.No.16359 of 2019 &
Crl.M.P.No.7335 of 2020

S.Govindaraj
S/o Soma Sundaram

...Petitioner

Vs.

1.The Commissioner of Police
Greater Chennai Police
No.132, Commissioner Office Building
EVK Sampth Road, Vepery
Chennai - 600 007.

2.Thiru.Sathiyalingam
3.Thiru.Dillibabu

...Respondents

(2nd and 3rd respondents are impleaded as per the order of this Court dated 27.06.2019 made in Crl.M.P.No.8397 of 2019.)

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to Direction the Respondent take action against the Inspector of Police Mr.Sathiyalingam, Grade I Constable Mr.M.Dillibabu, V-7, Nolambur Police Station, defacto complainant P.Reesa in Cr.No.274 of 2019 for registering a false case against, her son Siva Kumar, husband Periyannan and their hench men for beating the Petitioner and creating false document based upon the representation made by the petitioner dated 12.06.2019.

For Petitioner : Mr.S.Doraisamy

For Respondent : Mr.S.Karthikeyan

Additional Public Prosecutor for R1

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O R D E R
(Heard through Video Conference)

This Criminal Original Petition has been filed seeking direction to direct the respondent No.1 to take action against the respondent Nos.2 and 3, alleging that the respondents Nos.2 and 3 registered a false case in Crime No.274 of 2019 on the file of the Anna Nagar Police Station.

2. Heard Mr.S.Doraisamy, learned counsel appearing for the petitioner and Mr.S.Karthikeyan, learned Additional Public Prosecutor appearing for the respondent No.1.

3. On perusal of entire records placed before this Court, the ultimate prayer sought by the petitioner is to register the case against the 2nd and 3rd respondent, alleging that upon the complaint given by one P.Reesa, they registered a false case against this petitioner.

4. In respect of registration of a case, this Court has already formulated the guidelines. In view of the Judgment of the Hon'ble Division Bench of this Court in CrI.O.P.(MD). No.13681 of 2018 and batch of cases, dated 20.09.2018, in the case of G.Prabakaran vs. Superintendent of Police, Thanjavur District and another reported in 2018 (5) CTC 623, the Division Bench of this Court held as follows:

"(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.

(viii) The affidavit to be filed shall contain particulars regarding the date of complaint, receipt and the date of sending substances of the information to the superintendent of Police under Section 154(3) Cr.P.C. and its receipt. The Registry shall not number any petition without due compliance.

(ix) This Court is not bound to direct the police to register the complaint in all cases notwithstanding the breach of time table furnished in Lalitha Kumari's case.

(x) The judicial Magistrates, while dealing the petitions under Sections 156(3) Cr.P.C. are directed to keep in mind the narratives in Lalitha Kumari's case with specific reference to the cases, which might require a preliminary enquiry before issuing a direction to investigate and after careful perusal of the complaint. The other directions issued by the learned Single Judge in Sugesan Transport's case are upheld.

(xi) Eschewing Section 156(3) Cr.P.C. is only on exceptional and rarest of rare cases. Monstrosity of the offence, extreme official apathy and indifference, need to answer the judicial conscience, and existence of hostile environment are few of the factors to be borne in mind to bring a case under the rarest of rare one." "

5. Further the said view taken by this Court was affirmed by our Hon'ble Apex Court in the case of M.Subramaniam and Others vs. S.Janaki and Others reported in 2020 (5) CTC 464.

6. Therefore, after closing the enquiry by the police officer, the remedy available to the complainant is to file a complaint before the jurisdictional Magistrate under section 156 (3) of Cr.P.C. In otherwise, the petition filed for the relief of direction to direct the respondent police to register the FIR is against the ratio laid down in the above referred judgments.

7. Hence, in view of the above, the prayer sought for by the petitioner is devoid of merits. Accordingly, this Criminal

Original Petition is dismissed. Consequently the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

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Sub Assistant Registrar

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To

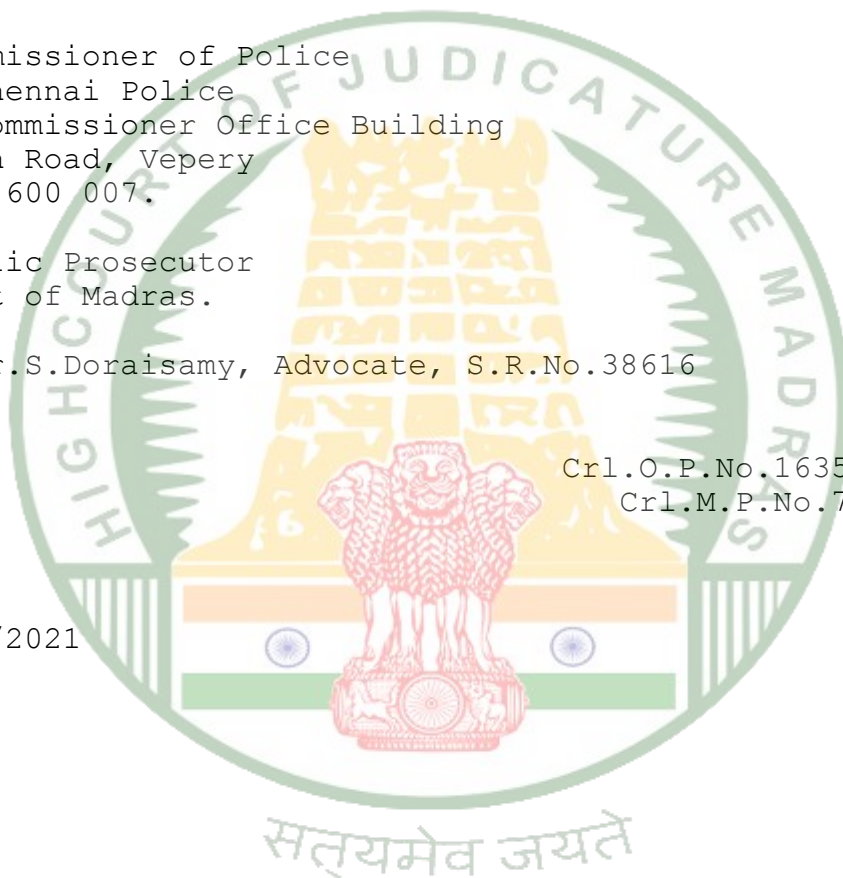
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+1cc to Mr.S.Doraisamy, Advocate, S.R.No.38616

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