

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.12.2020

CORAM:

THE HON'BLE MR.JUSTICE R.PONGIAPPAN

Cr1.O.P.No.19560 of 2020

N.N.Subramaniam

...Petitioner

-Vs-

State by

1. The Superintendent of Police,
Tiruppur District,
Tiruppur.

2. The Inspector of Police,
Kangayam Police Station,
Kangayam,
Tiruppur District.

... Respondents

Prayer: Criminal Original Petition filed under section 482 of Criminal Procedure Code, to issue directions, directing the 2nd respondent police to register FIR against the named said persons on the basis of the complaint lodged by the petitioner on 30.10.2020.

For Petitioner : Mrs.R.Hemalatha
for Mr.C.Prakasam

For Respondents: Mrs.M.Prabhavathi
Additional Public Prosecutor

सत्यमेव जयते
O R D E R

The matter was heard through "Video Conference".

2. This Criminal Original Petition has been filed seeking direction to direct the second respondent police to register the F.I.R against the named said persons based on the complaint given by the petitioner dated 30.10.2020.

3.Heard Mrs.R.Hemalatha, learned counsel appearing for the petitioner and Mrs.M.Prabhavathi, learned Additional Public Prosecutor appearing for the respondents.

4. Today when the matter is came up for hearing, the learned Additional Public Prosecutor appearing for the respondent police on instructions would submit that in respect of the dispute between the petitioner and the other persons, already the petitioner gave an application for police protection to survey the land now in dispute. In this regard, after due enquiry in C.No.30/20 dated 30.10.2020, the second respondent police provided necessary protection for measuring the property. As of now, no representation alleged to be given by the petitioner is pending on the file of the second respondent. The abovesaid submission is recorded.

5. Now on consideration of the prayer submitted by the petitioner, he wanted to register the F.I.R against some named persons mentioned in the complaint dated 30.10.2020. He fairly conceded, before filing this application, he has not approached the first respondent for necessary action and also he has not filed any complaint before the jurisdictional Magistrate.

6. In this regard, 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."

7. 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.

8. The only option available to the petitioner is that he has to follow the directions given by this Court which is narrated above. The petition filed by the petitioner is devoid of merits.

9. Resultantly, the Criminal Original Petition is dismissed.

s/d-

Assistant Registrar(CS V)

True Copy

Sub-Assistant Registrar

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To

1. The Superintendent of Police,
Tiruppur District,
Tiruppur.
2. The Inspector of Police,
Kangayam Police Station,
Kangayam,
Tiruppur District.
3. The Public Prosecutor,
High Court, Madras.

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SP(11/01/2021)

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