

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

CRL.O.P.No.22327 of 2019

Seman Sargunam
S/o.Seman,
No.20, Kokkumedu Village,
Ponneri Taluk,
Tiruvallur District - 601 204. Petitioner/Complainant

Vs.

1. V.Balakrishnan
S/o.R.Vasu
2. Premalatha
W/o.V.Balakrishnan

Both residing at
No.BS-2, Sankar Vibrants,
130/89, Hasan Basha Cross Street,
Pallavaram, Chennai - 600 043. Respondents/Accused 1 & 2

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to set aside the order dated 13.06.2018 passed by the learned Judicial Magistrate, Tambaram in Crl.M.P.No.3294 of 2018 and direct issuance of process to the respondents/accused and to deal with respondents/accused in accordance with law.

For Petitioner : Mr.Manoj Sreevalsan
For Respondents: No appearance.

ORDER

This Criminal Original Petition has been filed seeking relief to set aside the order dated 13.06.2018 passed by the learned Judicial Magistrate, Tambaram in Crl.M.P.No.3294 of 2018 and direct issuance of process to the respondents/accused.

2. Heard Mr.G.Mohana Krishnan, learned counsel appearing for the petitioner. There was no representation for the respondents.

3. Before the Court below, the petitioner being a complainant filed a complaint against the respondents 1 & 2 under Section 200 of Cr.P.C., alleging that the respondents 1 & 2 are committed the offence under Section 500 of IPC. The said complaint has been taken on file by the learned Judicial Magistrate, Tambaram in CrI.M.P.No.3294 of 2018 and after hearing the petitioner alone, the said complaint has been dismissed by observing that the notice dated 08.01.2018 sent by the accused and the reply notice dated 22.01.2018 sent by the complainant did not disclose the offence under Section 499 of IPC. By observing as above, the complaint filed by the petitioner was dismissed by an order dated 13.06.2018. Aggrieved over the same, the petitioner is before this Court seeking relief to set aside the above referred order.

4. Now on perusal of the order passed by the learned Judicial Magistrate, Tambaram, it has been passed without either recording sworn statement from the complainant nor getting report from the concerned jurisdictional Police officer. Therefore, the said procedure adopted by the learned Judicial Magistrate, Tambaram is in violation of Section 200 and 202 of Cr.P.C.

5. Upon receipt of the complaint, it is the duty of the Magistrate to follow the procedure contemplated either under Section 200 of Cr.P.C., or 202 of Cr.P.C. Therefore, basically the impugned order passed by the learned Judicial Magistrate, Tambaram is in violation of the said procedure. Therefore, for the above reason alone, the impugned order passed by the learned Judicial Magistrate, Tambaram is liable to be set aside.

6. Accordingly, the order dated 13.06.2018 passed in CrI.M.P.No.3294 of 2018 on the file of the learned Judicial Magistrate, Tambaram is set aside. The learned Judicial Magistrate, Tambaram is directed to pass orders in the complaint filed by the petitioner after complying the procedure laid down either under Section 200 of Cr.P.C., or 202 of Cr.P.C.

7. With the above directions, this Criminal Original Petition is ordered accordingly.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

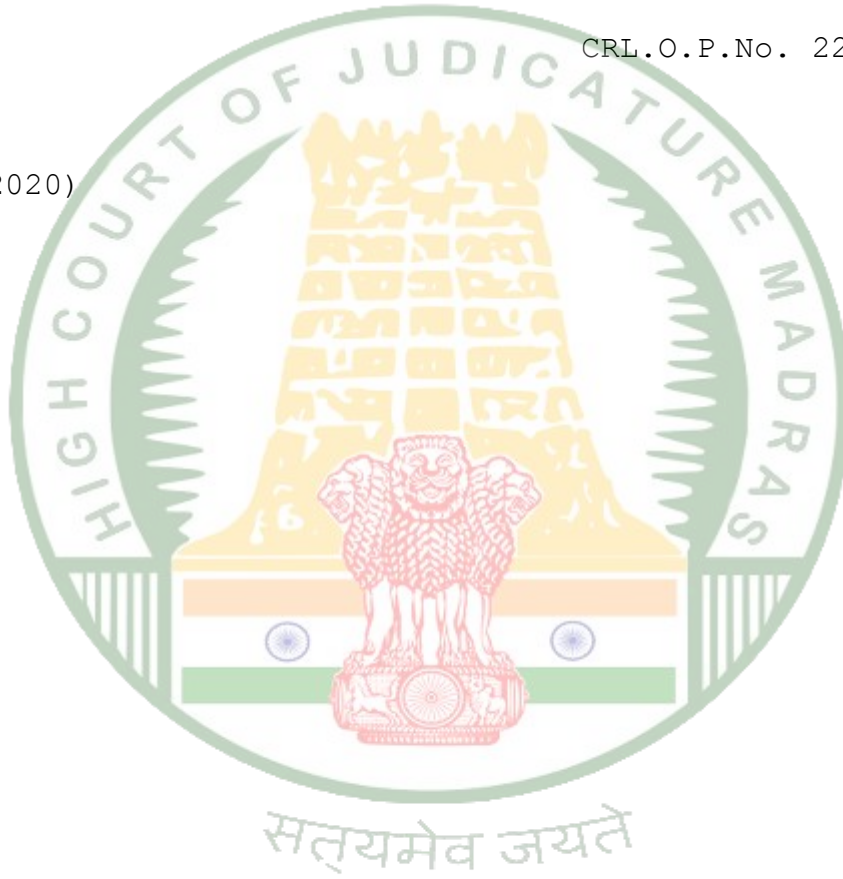
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To

1. The Judicial Magistrate,
Tambaram
- 2.The Additional Public Prosecutor
High Court, Madras 104.

CRL.O.P.No. 22327 of 2019

NR (CO)
SP (10/12/2020)



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