

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.07.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Cr1.O.P.No.10628 of 2017

Dr.K.Venkata Rao,
S/o.E.Krishnamurthy,
B.13/309, Kendriya Vihar,
Velappan Chavadi,
Chennai - 600 077.

...Petitioner/Complainant

Vs.

1.G.Nirmala
2.S.Gokul Sankar
3.G.Sivakumar
4.Ziaudheen

...Respondents/Accused

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records in unnumbered C.C.No. of 2017, dated 23.1.2017 passed by the Judicial Magistrate No.II, Poonamallee and set aside the same.

For Petitioner : Mr.R.Sankara Subbu

For Respondents : Mr.Sunder Mohan
for Mr.S.D.Venkateswaran

O R D E R

This petition has been filed challenging the order dated 23.01.2017 made in unnumbered C.C.No. of 2017 on the file of the learned Judicial Magistrate Court No.II, Poonamallee.

2. The learned counsel for the petitioner would submit that the petitioner lodged a private complaint as against the accused persons for the offences under Sections 120-B, 418, 420, 441, 445 and 450 IPC and Section 3 of T.N.P.P.D.L.Act. He has further submitted that the learned Judicial Magistrate-II, Poonamallee was initially returned the complaint for want of some particulars. Again it was represented, after compliance of return before the concerned Court. On receipt of the same, without conducting any enquiry and without following the procedures lay down under the Criminal Procedure Code, the learned Magistrate simply dismissed the complaint on merits.

3. It is seen from the records, the petitioner lodged a complaint under Section 200 of Criminal Procedure Code before the learned Judicial Magistrate-II, Poonamallee. The learned Magistrate had gone through the complaint and dismissed the same, on the ground that the allegations do not constitute any of the offence as alleged by the petitioner herein. Further, he had gone into one step further into the merits of the complaint and dismissed the same, without even recording the statements from the petitioner/defacto complianant and by supporting witnesses. Therefore, admittedly, the learned Magistrate did not follow the procedures as contemplated under Sections 201, 202 and 203 of Criminal Procedure Code. Therefore, this order cannot be sustained and it is liable to be set aside.

4. Accordingly, this Criminal Original Petition stands allowed and the order passed by the learned Judicial Magistrate-II, Poonamallee, is hereby set aside. The learned Magistrate is directed to follow the procedures as contemplated under the Criminal Procedure Code and conduct the enquiry after recording the sworn statements of the petitioner and his supporting witnesses and pass orders on merits and in accordance with law within a period of eight weeks from the date of receipt of the order. It is also made clear that the learned Magistrate is directed to pass orders on merits without influencing any one of the observation made by this Court.

Sd/-
Assistant Registrar(AD I)MDU

//True Copy//

Sub Assistant Registrar

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To

The Judicial Magistrate-II,
Poonamallee.

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MP (CO)
KKV/02/09/2020