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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2020

CORAM

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Cr1.O.P No.23778 of 2019

Murugesan

... Petitioner

Vs.

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

2. M.Selvaraj

3. Baskara Babu

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure to direct the first respondent to grant sanction to initiate criminal proceedings against the 2nd and 3rd respondents for the offences under Sections 166 A (b), 167 of I.P.C. in C.C.No.268 of 2019 on the file of the Judicial Magistrate No.1, Attur, pursuant to the petitioner's representation dated 19.07.2019.

For Petitioner : Mr.M.Subash

For 1st Respondent : Mr.S.Karthikeyan
Additional Public Prosecutor

For 2nd and 3rd
Respondents : No appearance

O R D E R

The present Criminal Original Petition has been filed seeking a direction to the 1st respondent to grant sanction to initiate criminal proceedings against the 2nd and 3rd respondents for the offences under Sections 166 A (b) and 167 of I.P.C. in C.C.No.268 of 2019 pending on the file of the Judicial Magistrate No.1, Attur, pursuant to the petitioner's representation dated 19.07.2019.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the 1st respondent police.



3. Today when the petition came up for hearing, the learned counsel for the petitioner would submit that though the learned Magistrate has taken cognizance against the 2nd and 3rd respondents in respect of the petition mentioned offences, due to non-availability of the sanction, the same cannot be proceeded and therefore, he would pray to direct the first respondent police for granting sanction to initiate the criminal proceedings under Sections 166 A (b) and 167 of I.P.C. against the 2nd and 3rd respondents.

4. Now on considering the submissions made by the learned counsel for the petitioner, the fact remains that as of now, the case has been pending against the 2nd and 3rd respondents on the file of the Judicial Magistrate No.1, Attur, alleging that they have committed the offences under Sections 166 A (b) and 167 of I.P.C. Subsequent to taking cognizance, the learned Judicial Magistrate had come to a conclusion that the alleged occurrence had happened only at the time while the 2nd and 3rd respondents were discharging their official duties. Therefore, for want of sanction under Section 197, he keeps the case without any further proceedings.

5. In the said circumstances, this Court cannot pass any positive direction as prayed for by the petitioner. It is well settled proposition that if any positive direction is given in favour of the petitioner, the same is illegal. Therefore, an appropriate remedy to the petitioner is to direct the 1st respondent to dispose of the petitioner's representation dated 19.07.2019 within a stipulated time that may be fixed by this Court.

6. Accordingly, the 1st respondent police is directed to dispose of the petitioner's representation dated 19.07.2019 within a period of two (2) months from the date of receipt of a copy of this order.

With the above direction, the Criminal Original Petition is disposed of.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar



To

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1. The Superintendent of Police,
Salem District, Salem.
2. The Judicial Magistrate No.I,
Attur.
3. The Public Prosecutor,
High Court of Madras,
Madras.

Crl.O.P No. 23778 of 2019

LN(CO)
RMP(04/11/2020)