

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :14.10.2020

CORAM:

THE HONOURABLE MR. JUSTICE R. PONGIAPPAN

Crl.O.P.No.26680 of 2019

K.S. Suresh S/o. V. Subramaniam,
6/125-D, Thirupathi Nagar,
Vengamedu, Kunnathur,
Tiruppur District.

.. Petitioner

Vs.

State Rep. by
The Inspector of Police,
Gobichettipalayam Police Station
Crime No.336 of 2019
Eroade District

.. Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to direct the respondent to alter the Section of law from 145 of Cr.P.C. to 147, 148, 452,432 and 506(ii) of I.P.C. On the file of the petitioner's complaint dt.14/5/19 in crime no.336 of 2019 on the file of the respondent.

For Petitioner : Mr. P. Kalimuthu

For Respondent : Mr.S. Karthikeyan

Additional Public Prosecutor

O R D E R

(This case has been heard through video conferencing)

The Criminal Original Petition has been filed praying to direct the respondent to alter the Section of Law from 145 of Cr.P.C. to 147, 148, 452,432 and 506(ii) of I.P.C. in crime no.336 of 2019 on the file of the respondent which has been registered based upon the complaint dated 14.05.2019 given by the petitioner.

2. Heard Mr. P. Kalimuthu, learned counsel for the petitioner and Mr.S. Karthikeyan, learned Additional Public Prosecutor appearing for the respondent.

3. Today, when this petition came up for hearing, the learned counsel for the petitioner would submit that the petitioner has made complaint on 14.05.2019 before the respondent and on receipt of the same, the respondent police

registered the case in Crime No.336 of 2019 under Section 145 Cr.P.C. He would further submit that though various allegations were levelled in the complaint against the proposed accused, instead of registering the case in various provisions under I.P.C., the respondent has registered the case under Section 145 Cr.P.C. alone and forwarded to R.D.O. for further action. Therefore, it is necessary to entertain this petition and direct the respondent police for altering the section of law as prayed for.

4. On the other hand, the learned Additional Public Prosecutor would submit that after registering the case under Section 145 Cr.P.C, there is no provision available for altering the section of law and therefore this Court may direct the concerned R.D.O. to complete the 145 proceedings within a stipulated period.

5. On considering the said submissions, it is made clear from a bare perusal of Section 145 Cr.P.C., the R.D.O./Executive Magistrate, if at all he is satisfied either on receiving report from the police or otherwise that there is likelihood of any breach of peace within his jurisdiction, he is at liberty to pass preliminary order as contemplated under Section 145 Cr.P.C.

6. In this regard, in the case of "M. Krishnamurthy Vs. The Sub Divisional Magistrate dated 24.01.2017 in CrI. OP. No.17684 of 2015", the Division Bench of this Court held as follows:

"16. In our opinion, what is laid before the Executive Magistrate in the FIR format is only an information and not a First Information Report stricto sensu as contemplated u/s.154 Cr.P.C. This practice does not fall foul of any rule of positive law. In Vinay Tyagi Vs. Irshad Ali [(2013) 5 SCC 762], the Supreme Court has stated that the matters which are understood and implemented as a legal practice and are not opposed to the basic rule of law would be good practice and such interpretation would be permissible with the aid of the doctrine of contemporanea expositio"

7. Now, on perusal of the Court Records, it is seen that the R.D.O. report is still awaited regarding the proceedings initiated under Section 145 against two groups. Under these circumstances, the R.D.O. Gopichettipalayam, is directed to complete the enquiry which has been initiated against two groups upon the complaint given by the petitioner, as contemplated under Section 145 Cr.P.C. within a period of two months from the date of receipt of copy of this order. The Registry is directed to forward a copy of this order to the

R.D.O., Gobichettipalayam.

8. With the above direction, the Original Criminal petition is disposed of accordingly.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

lbm

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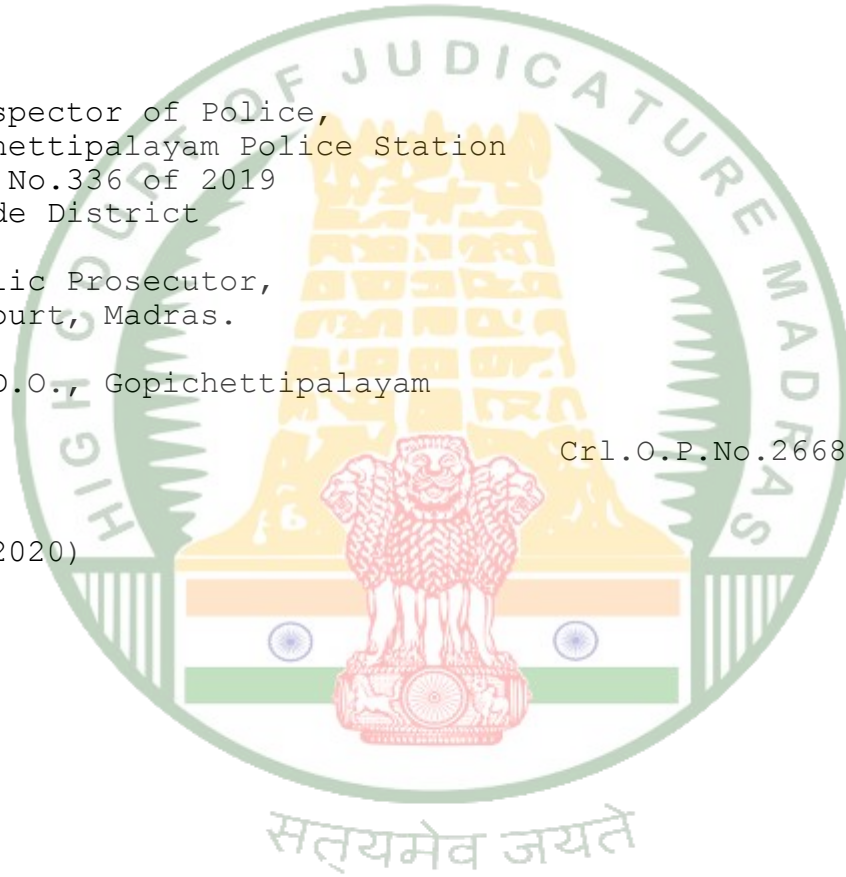
1. The Inspector of Police,
Gobichettipalayam Police Station
Crime No.336 of 2019
Eroade District

2.The Public Prosecutor,
High Court, Madras.

3. The R.D.O., Gopichettipalayam

Cr1.O.P.No.26680 of 2019

GP(CO)
CB(09/12/2020)



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