



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

**Dated: 17.03.2020**

CORAM

THE HONOURABLE MRS. JUSTICE **T.KRISHNAVALLI**

WEB COPY

**Cr1.RC(MD)No.99 of 2020**

Ayyappan : Petitioner/Complainant

Vs.

1.The Superintendent of Police,  
Office of the Superintendent of Police,  
Sivagangai-630562.

2.The Inspector of Police,  
Land Grabbing Cell,  
Sivagangai-630 562.

3.The Inspector of Police,  
Thiruppachethi Police Station,  
Sivagangai District-630610 : Respondents/Respondents

**Prayer:** Criminal Revision filed under section 397 r/w 401 of the Code of the Criminal Procedure against the order passed by the District Munsif-cum-Judicial Magistrate, Thiruppuvanam, in Cr.MP No.1126 of 2019, dated 08.01.2020 and consequently, direct the 3<sup>rd</sup> respondent to register FIR based on the petitioner's father complaint, dated 24.09.2019.

For Petitioner : Mr.R.Senthilkumar

For Respondents : Mr.A.P.G Ohm Chairma Prabhu  
Government Advocate (Cr1. Side)

**O R D E R**

This criminal revision is directed against the order passed by the District Munsif-cum-Judicial Magistrate, Thiruppuvanam, in Cr.MP No.1126 of 2019, dated 08.01.2020 and consequently, direct the 3<sup>rd</sup> respondent to register FIR based on the petitioner's father complaint, dated 24.09.2019.

2.The father of the petitioner Late Maniyapillai having lands comprised in survey No.109/1A1C and he mortgaged the lands to one Karuppaiya Pillai for a sum of Rs.10,000/- and subsequently, he redeemed the mortgage on 24.09.2016 and after redemption, he came to know that some persons namely Selvampillai,



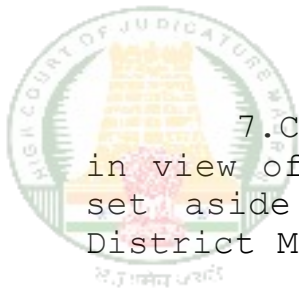
Subramaniya Bharathi, Natarajan, Muthuganeshwari and Pathmavathi with some officials had illegally entered into a criminal conspiracy and by creating forgery documents, sold the lands of the petitioner's father to one Pathmavathi on 20.12.2004. In this regard, the father of the petitioner preferred complaint before the respondents on 24.09.2019. As there is no response, the petitioner's father filed a petition under section 156(3) Cr.P.C before the Judicial Magistrate, Thiruppuvanam in Cr.M.P No.1126 of 2019. In the meantime, the father of the petitioner died on 18.11.2019. Thereafter, the petitioner filed substitution petition under section 302 Cr.P.C and the same was allowed by the Judicial Magistrate, Thiruppuvanam. Thereafter, the learned Judicial Magistrate dismissed the complaint filed the petitioner's father on 08.01.2020. Aggrieved by the same, the petitioner is before this court.

3. Heard the learned counsel appearing on either side and perused the materials available on record.

4. On perusal of records and also hearing the arguments advanced by both sides, the petitioner's father has preferred a complaint under Section 156(3) Cr.P.C. before the learned Judicial Magistrate, Thiruppuvanam, in Cr.MP No.1126 of 2019. But the learned Magistrate has dismissed the petition filed under section 156(3) Cr.P.C on the ground that the complaint has not disclosed any cognizable offence.

5. It is the contention of the learned counsel for the petitioner that the complaint filed by the father of the petitioner discloses cognizable offence, but without considering the materials, the Judicial Magistrate has simply dismissed the petition, which is illegal. In support of the said contention, the learned counsel relied on a decision reported in **2006(1) SCC (Cri.) 460 (Mohd. Yousuf Vs. Afaq Jahan (Smt.) and another)** in which it is held that registration of FIR involves only the process of entering the substance of the information relating to commission of the cognizable offence in a book kept by the officer in charge of the police station to register an FIR when investigation under Section 156(3) is directed by the Magistrate, even when the magistrate explicitly does not say so and in the decision reported in 2016(3) MWN (Cr.) 236 (Sugesan Transport Pvt.Ltd., Vs. The Assistant Commissioner of Police and others), it has been held that failure to register FIR pursuant to order passed by Magistrate under Section 156(3) Cr.P.C. is liable to be prosecuted under Section 21 r/w 44 of District Police Act.

6. Heard the learned Government Advocate (Criminal side) appearing for the respondents.



7. Considering the facts and circumstances of the case and in view of the decisions (cited supra), this Court is inclined to set aside the order in CrI.M.P.No.1126 of 2019 passed by the District Munsif-cum-Judicial Magistrate, Thiruppuvanam.

8. In fine, this criminal revision is **allowed**. The impugned order, dated 08.01.2010 passed by the District Munsif-cum-Judicial Magistrate, Thiruppuvanam, is set aside and the 3<sup>rd</sup> respondent Police is directed to register FIR and investigate the matter and thereafter, submit a report before the Court concerned as expeditiously as possible.

Sd/-

Assistant Registrar(AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

er  
To,

1. The District Munsif-cum-Judicial Magistrate, Thiruppuvanam.

2. The Superintendent of Police,  
Office of the Superintendent of Police,  
Sivagangai-630562.

3. The Inspector of Police,  
Land Grabbing Cell, Sivagangai-630 562.

4. The Inspector of Police,  
Thiruppachethi Police Station,  
Sivagangai District-63-610

5. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.R.SENTHIL KUMAR, Advocate ( SR-12091[F] dated 17/03/2020 )

**CrI.RC(MD)No.99 of 2020**  
**17.03.2020**

DB(CO)  
TR(15.05.2020)3P 7C