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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.02.2020

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Cr1.O.P.(MD)No.13670 Of 2016 and

CRL.M.P.(MD)No.6394 of 2016

Rajeswari

... Petitioner/Sole Accused

Vs.

States rep by its:-

1. The Inspector of Police,
Peraiyur Police Station,
Madurai District.

(Crime No.153 of 2016)

... Respondent/Respondent

2. Aruljothi,
Assistant,
District cum Munsif cum Judicial Magistrate court,
Peraiyur,
Madurai District.

(Amended vide order dated 29.09.2016 in

Cr1.M.P.(MD)No.9321 of 2016) ... Respondent/ Defacto Complainant

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for records relating to the FIR in Crime No.153 of 2016 on the file of the 1st Respondent and quash the same in so far as the petitioner is concerned

For Petitioner : Mr.M.Subash Babu

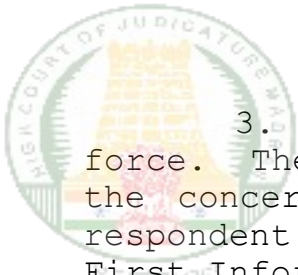
For Respondents : Mr.A.Robinson,
Government Advocate(Cr1. Side)

* * *

O R D E R

The petitioner is shown as accused in Crime No.153 of 2016 registered on the file of Peraiyur police station for the offences under Section 193 of I.P.C.

2. The petitioner's counsel pointed out that there is a statutory bar under Section 195(1)(b) of Cr.P.C. in this regard. As per Section 195 of Cr.P.C., no Court shall take cognizance of the offence punishable under Section 193 of I.P.C. except on the complaint in writing of that Court or by such officer of the Court as that Court may authorise in writing in this behalf, or of some other Court to which that Court is subordinate. In this case, the petitioner is alleged to have given false evidence before the Court.



3. I find the petitioner's contentions having considerable force. The second respondent ought to have given a complaint before the concerned Court and not lodged a complaint before the first respondent police station. In this view of the matter, the impugned First Information Report stands quashed.

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4. But the matter cannot rest there. The learned District Munsif, Peraiyur, had found that the petitioner had committed the offence under Section 193 of I.P.C. Therefore, he is directed to ensure the prosecution of the petitioner herein. But then the course of action adopted is not in consonance with Section 195 of Cr.P.C. Therefore, the second respondent is directed to file an appropriate complaint before the concerned Court. This shall be done within a period of eight weeks from the date of receipt of a copy of this order.

5. With this direction, the criminal original petition stands allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To:

1. The Inspector of Police,
Peraiyur Police Station,
Madurai District.
2. The District Munsif cum Judicial Magistrate,
Peraiyur.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.M.SUBASH BABU, Advocate (SR-5845[F] dated 12/02/2020)

Crl.O.P. (MD) No.13670 of 2016

11.02.2020