



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 05.03.2020

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THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI

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Cr1.R.C(MD)No.880 of 2019

Kalaiyarasan

: Petitioner/Petitioner

Vs.

1.The Inspector of Police,
Paramakudi Taluk Police Station,
Paramakudi,
Ramanathapuram District.

2.The Deputy Superintendent of Police,
Office of the Deputy Superintendent of Police,
Paramakudi,
Ramanathapuram District.

3.The Superintendent of Police,
Office of the Superintendent of Police,
Ramanathapuram.

: Respondents/Respondents

Prayer: Criminal Revision Petition has been filed under Section 397 r/w 401 of Criminal Procedure Code, against the order passed in Cr.MP No.4788 of 2019 on the file of the Judicial Magistrate, Paramakudi, dated 19.09.2019.

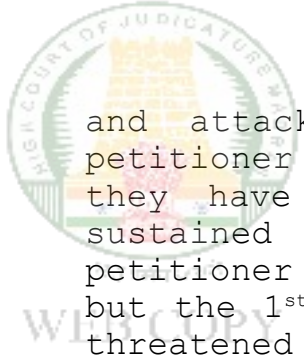
For Revision Petitioner : Mr.D.Senthil

For Respondents : Mr.APG.Ohm Chairma Prabhu
Government Advocate
Criminal side)

O R D E R

This criminal revision is directed against the order passed in Cr.MP No.4788 of 2019 by the Judicial Magistrate, Paramakudi, dated 19.09.2019.

2.The short facts of the case is that the petitioner belongs to Scheduled Caste and on 12.05.2019 at about 04.10 pm, the petitioner along with his friends were sitting in Venkitakurichi Kanmai and after knowing the same, one Nagarajan and his relatives, those who are all belonged to Hindu Konar Community came to the place and scolded the petitioner and his friends by using Caste name



and attacked by using deadly weapons and at that time, the petitioner requested that they are leaving the place and for that, they have attacked with knife and due to it, the petitioner sustained cut injury in the head and fingers. Thereafter, the petitioner went to the 1st respondent police to lodge a complaint, but the 1st respondent police has not taken the complaint and also threatened to withdraw the complaint of the petitioner. The petitioner made a representation to the respondents on 29.06.2019 and 07.08.2019. As there is no response, the petitioner filed a petition under section 156(3) Cr.P.C before the Judicial Magistrate, Paramakudi, in Cr.M.P No.4788 of 2019 seeking for a direction to the 1st respondent to register the case. The learned Judicial Magistrate dismissed the said petition on 19.09.2019. 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 has preferred a complaint under Section 156(3) Cr.P.C. before the learned Judicial Magistrate, Paramakudi, in Cr.MP No.4788 of 2019. The learned Magistrate simply dismissed the said petition stating that no prima facie case is found.

5. The learned counsel for the petitioner would contend that the reason adduced by the learned Judicial Magistrate for dismissing the application is that the complaint of the petitioner is counter-blast to the case registered against him, which is illegal and that even though there is a life threat to the petitioner, the complaint of the petitioner was not taken into consideration. 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 **2016(3) MWN (Cr.) 236 (Sugesan Transport Pvt.Ltd., Vs. The Assistant Commissioner of Police and others)** wherein 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. On the other hand, the learned Government Advocate (Criminal side) appearing for the respondents argued that the complaint lodged by the petitioner is utter false and the respondent police never obtained the signature of the petitioner by coercion and as a counter-blast to the FIR registered against the petitioner,



as an afterthought, the petitioner has preferred the private complaint, which was rightly dismissed by the trial court.

7. Considering the above facts and circumstances of the case and in view of the decisions (cited supra), this Court is inclined to set aside the impugned order passed in CrI.M.P.No.4788 of 2019 by the Judicial Magistrate, Paramakudi.

8. In fine, this criminal revision is **allowed**. The impugned order passed in Cr.MP No.4788 of 2019, dated 19.09.2019 by the Judicial Magistrate, Paramakudi, is set aside. The 1st respondent Police is directed to register FIR on the complaint of the petitioner and investigate the matter and thereafter, submit a report before the Court concerned as expeditiously as possible.

Sd/-

Assistant Registrar

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Sub Assistant Registrar(CS)

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To,

1. The Inspector of Police,
Paramakudi Taluk Police Station,
Paramakudi,
Ramanathapuram District.
2. The Deputy Superintendent of Police,
Paramakudi,
Ramanathapuram District.
3. The Superintendent of Police,
Ramanathapuram.
4. The Judicial Magistrate,
Paramakudi.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Maudrai.



+1 CC to M/s.D.SENTHIL, Advocate (SR-10039[F] dated 04/03/2020)

+1 CC to M/s.D.SENTHIL, Advocate (SR-10239[F] dated 05/03/2020)

+1 CC to M/s.D.SENTHIL, Advocate (SR-10417[F] dated 06/03/2020)

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Order made in
Crl.R.C(MD)No.880 of 2019

05.03.2020

CN(14.05.2020) 4P 9C