



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 27.02.2020

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THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI

Cr1.R.C(MD)No.891 of 2019

Archanakani

... Petitioner/Complainant

Vs.

1.The State rep. by
The Inspector of Police,
Thattarmadam Police Station,
Tuticorin District.

2. Manohar
3. Maharajan
4. Palsamy

... Respondents/Accused 2 to 4

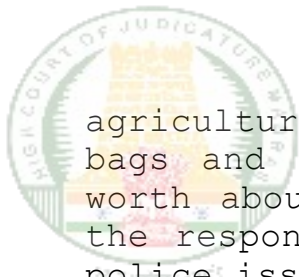
Prayer: Criminal Revision Petition has been filed under Section 397 and 401 of Criminal Procedure Code, against the order passed in Cr.MP No.7057 of 2019 on the file of the Judicial Magistrate, Shathankulam, dated 25.09.2019.

For Revision Petitioner	: Mr.M.Murugaesan
For 1 st Respondent	: Mr.APG.Ohm Chairma Prabhu
	Government Advocate(Criminal side)
For R2 to R4	: Mr.S.Saji Bino

O R D E R

This criminal revision is directed against the order passed in Cr.MP No.7057 of 2019 on the file of the Judicial Magistrate, Shathankulam, dated 25.09.2019.

2.The petitioner got divorce from her husband before 35 years back and thereafter, she was taken care by her elder brother namely Muthukumarasamy, who is an handicapped person and thereafter, he died, the petitioner was taken her brother's daughter and before the death of the Muthukumarasamy, he was gifted all the properties to his daughter namely Vasanthi and now, the said Vasanthi is residing outstanding and hence, the petitioner is only maintaining the agricultural land and on 11.07.2019, the petitioners labours were plucked the coconut from the coconut trees and all the coconut bags were kept in the



agricultural land and thereafter, the petitioner sawn the coconut bags and 4 coconut hags were stolen by the respondents 2 to 4 worth about Rs.7,000/-. The petitioner lodged a complaint before the respondent police on 12.07.2019 and thereafter the respondent police issued a CSR receipt. Since, no action has been taken, the petitioner made a complaint on 15.07.2019 before the Superintendent of Police, Tuticorin. As there is no response, the petitioner has filed a petition under section 156(3) Cr.P.C before the Judicial Magistrate, Sathankulam, in Cr.M.P No.7057 of 2019. The learned Magistrate directed the 1st respondent to conduct preliminary enquiry and if any prima face offence has been made, file a report. After passing the order, the 1st respondent without conducting proper enquiry, simply filed the closure report on 15.09.2019. Based on the closure report, the learned Magistrate, dismissed the petition filed under section 156(3) Cr.P.C 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, Sathankulam, in Cr.MP No.7057of 2019 the learned Magistrate directed the 1st respondent to conduct preliminary enquiry, if prima faacie of cognizable offence has been made and subsequently, the 1st respondent police without conducting proper enquiry, simply filed the closure report on 15.09.2019. Based on the closure report, the learned Judicial Magistrate, by order, dated 25.09.2019 simply dismissed the petition.

5.The learned counsel for the petitioner would contend that as per the order passed by the learned Judicial Magistrate, Sathankulam, the Inspector of Police is bound to register a FIR at the first instance and after investigating the case, a final report has to be filed before the concerned Judicial Magistrate. However, in this case, without registering FIR, the respondent Police filed a closure report, which is illegal. 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.The learned Additional Public Prosecutor also admit the fact that without registering FIR the Police has submitted a closure report and on the basis of which, the learned Judicial Magistrate passed the impugned order, which is not legal one.

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 Cr1.M.P.No.7057 of 2019 passed by the Judicial Magistrate, Shathankulam.

8.In fine, this criminal revision is allowed. The impugned order is set aside and the 1st 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()

/True Copy/

Sub Assistant Registrar()

TO

1. THE JUDICIAL MAGISTRATE,
SHANTHANKULAM.
2. THE INSPECTOR OF POLICE,
THATTARMADAM POLICE STATION,
TUTICORIN DISTRICT.
3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to M/s.M.MURUGESAN, Advocate (SR-9222[F] dated 28/02/2020)

Order made in
Cr1.R.C(MD)No.891 of 2019
27.02.2020

SRS/16.03.2020/3P/5C