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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.08.2021

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

CRL.OP.NO.14793/2015

[Video Conferencing]

M.Selvarasu

... Petitioner

Versus

1. The Inspector of Police
Thali Police Station
Krishnagiri District.
[Crime No.391/2013]

2. K.Baskar

... Respondents

Prayer :- Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records in Crime No.391 of 2013 on the file of the 1st respondent herein and quash the same as illegal.

For Petitioner : No Appearance

For R1 : Mr.E.Raj Thilak
Government Advocate [Cr1.Side]



ORDER

- (1) Even though there has been no representation on behalf of the petitioner, I think holding back the matter on the board of this Court would be of no avail to the petitioner herein.
- (2) It is also seen from the note papers that there has been no representation on behalf of the petitioner on at least two earlier hearings and frustrated by such absence, my learned Predecessor had listed the matter under the caption ''for dismissal''.
- (3) Today, again there is no representation.
- (4) The petitioner, at the relevant point of time, was working as Special Sub Inspector of Police at Thali Police Station in Krishnagiri District. He was asked to go over to the High Court to give instructions with respect to Crime No.40/2013 which had been registered under Sections 147, 148, 364, 302 and 201 of IPC. Naturally, the offences being grave in nature, it was expected that the official would discharge his official duties and among various official duties, the duty of an Investigating Officer is also to give necessary instructions to the learned Public Prosecutor in the High Court, whenever the matter comes up. As has been his habit, it is seen owing to absence before this Court, he has also absented himself in giving instructions to the learned Public Prosecutor, which led to not only placing him under suspension by his superior official/Superintendent of Police at Krishnagiri District, but also registration of an FIR in Crime No.391/2013 on 26.09.2013 for the offences under Sections 166 and 409 of IPC. The present petition has been filed seeking to quash the said FIR.
- (5) Section 166 of IPC relates to a public servant disobeying the procedure as established by law and as a matter of fact, disobeying the law itself and conducting himself in such a manner that by such disobedience, injury can be caused to any person. Had the petitioner given necessary instructions to the learned Public Prosecutor when called



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to do so, the Court would also have been informed of proper facts of the case during the course of hearing. Absence thereto, was likely to cause either injury to the complainant or to the accused therein because without proper instructions, the learned Public Prosecutor can never address the Court and the Court would also not be able to pass an appropriate order. Therefore, it would only be appropriate that the petitioner answers the said charge under Section 166 of IPC.

- (6) Insofar as Section 409 of IPC is concerned, the same relates to criminal breach of trust by a public servant. Non appearance before the High Court to give necessary instructions to the learned Public Prosecutor attracts such a provision. It would only be in the interest of the petitioner that he focuses on facing the charges as enunciated in the FIR. Quashing the same is not possible.
- (7) The Criminal Original Petition stands dismissed. The same order would also have been issued even if there had been presence or representation on the part of the petitioner.

Sd/-

Assistant Registrar(CS-VIII)

// True Copy //

Sub Assistant Registrar

AP

To

1. The Inspector of Police
Thali Police Station
Krishnagiri District.

2. The Public Prosecutor
High Court, Madras.

Cr1.OP.No.14793/2015

PMK(CO)

RLP(17/09/2021)