

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2021

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

CRL.O.P.No.20450 of 2020

Mr.Venugopal

...Petitioner

.Vs.

1.The State rep.by
The Inspector of Police,
Tirunavallur Police Station,
Tirunavallur.

2.R.Thatchinamoorthy

3.Mr.Ramu

4.Mr.Duraisamy

5.Mr.Ranganathan

....Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the learned Principal District and Sessions Judge at Villupuram to take the criminal revision case sr No.139 of 2020 (CNR-TNVPO10004792020) on the file and number the same and dispose it in accordance with law within a reasonable time fixed by this Hon'ble Court.

For Petitioner : Mr.S.Kumaresan

For Respondents : Mr.M.Mohamed Riyaz
(Cr.Side)

सत्यमेव जयते
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed for a direction to the Principal District and Sessions Court, Villupuram to take the criminal revision petition filed by the petitioner on file and dispose it of in accordance with law.

2.The petitioner filed a complaint before the learned Judicial Magistrate II, Ulundurpet and the learned Judicial Magistrate passed an order on 11.03.2020, by treating the complaint as filed u/s 200 of Cr.P.C., and posted the matter for recording the sworn statement of the petitioner on 13.03.2020.

The petitioner aggrieved by the said order, filed a criminal revision before the Sessions Court and the same was returned by the Sessions Court. Aggrieved by the same, the present petition has been filed before this Court seeking for appropriate directions.

3.The learned counsel for the petitioner submitted that the petitioner was aggrieved by the order passed by the learned Magistrate, treating the complaint u/s 200 of Cr.P.C., only on the ground that there are unknown accused persons in this case and a private complaint will not serve the purpose.

4.In the considered view of this Court, this Court does not find any illegality or infirmity in the order passed by the learned Judicial Magistrate II, Ulundurpet. Once a complaint is filed before the Magistrate, the option is given to the Magistrate to either direct for an investigation u/s 156(3) of Cr.P.C., or adopt the course provided u/s 200 of Cr.P.C. This power vested with the Magistrate was recognized by the Hon'ble Supreme Court in *Mona Panwar .v. High Court of Judicature of Allahabad* through its Registrar and Others reported in (2011) 3 SCC 496. This position was subsequently reaffirmed by a three Member Bench of the Hon'ble Supreme Court in *Ram Dev Food Products Private Limited v. State of Gujarat* reported in (2015) 2 MLJ Cr1.112. Therefore, this Court does not find any illegality in the order passed by the learned Magistrate.

5.Even if the submission made by the learned counsel for the petitioner to the effect that there are unknown accused persons in this case is taken into consideration, it is not as if, the Magistrate does not have the power to order for an investigation while dealing with the complaint u/s 200 of Cr.P.C. Such a power is specifically available to a Magistrate u/s 202 of Cr.P.C., wherein the Magistrate can postpone the issuance of process by directing an investigation to be made by a police officer and thereafter act upon the report and take a decision for issuing process. While doing so, it is always possible to ascertain the persons who are involved in the crime.

6.The petitioner ought to have acted upon the order passed by the learned Magistrate and instead he wasted his time in challenging the same before the Sessions Court. This procedure adopted by the petitioner is wholly unnecessary.

7.In view of the above, this Court finds that no useful purpose will be served by issuing a direction to the Sessions Court to entertain the criminal revision filed by the petitioner. It is left open to the petitioner to comply with the directions issued by the learned Judicial Magistrate II, Ulundurpet and work out his remedy in accordance with law.

8.This criminal original petition is disposed of with the above directions.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

KP
To

1. The Principal District
and Sessions Judge
Villupuram.
- 2.The Judicial Magistrate No.II
Ulundurpet
- 3.Do Thro The Chief Judicial Magistrate
Villupuram
4. The Inspector of Police,
Tirunavallur Police Station,
Tirunavaloor.
- 5.The Public Prosecutor,
High Court, Madras.
- +1 CC to Mr.S.Kumaresan, Advocate sr 686.

CRL.O.P.No.20450 of 2020

KK(CO)
SP(25/01/2021)

सत्यमेव जयते

WEB COPY