



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.02.2021

CORAM :

THE HONOURABLE Mrs. JUSTICE R. HEMALATHA

Crl.O.P.(MD)No.1442 of 2021

S.Revathi ...Petitioner

/Vs./

1.The Superintendent of Police,
Karur District, Karur - 639 007.

2.The Inspector of Police,
Anti Land Grabbing Special Cell,
Karur District, Karur.

3.P.Lakshmi

4.Uma Maheswari

5.S.Chellamuthu

6.D.Manikandan

7.J.Vijayalakshmi,
Block Development Officer, Karur Panchayat Union,
V.Pasupathipalyam, Kadhapparai Village,
Manmagalam Taluk, Karur District.

8.T.Ramkumar,
Joint-2 Sub Registrar,
Karur West, Karur District.

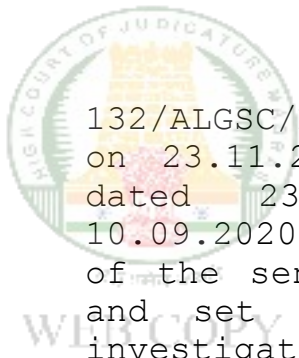
9.Er.Kirubakaran

10.V.Balu

11.The Manager,
Professional Couriers
No.28 Sengunthapuram 2nd Cross,
Karur - 639 0002.

...Respondents

Prayer: Criminal Original Petition filed under Section 482 of Code of Criminal Procedure, to call for the records relating to the notice dated C.No.118/19, 136/19, 1, 64, 121 and



132/ALGSC/KRR/2020, dated 21.09.2020 issued by the 2nd respondent on 23.11.2020 closing the investigation as civil in complaints dated 23.09.2019, 08.11.2019, 06.03.2020, 03.08.2020 and 10.09.2020 which was dispatched on 23.11.2020 without the address of the sender through courier and received by her on 27.11.2020 and set aside the same and issue a direction for further investigation by some other independent investigating agency in accordance with law.

For Petitioner

: Mr.Nagarajan.V

For Respondents 1 and 2

: Mr.R.Erottuchamy

Government Advocate
(Criminal Side)

ORDER

The present petition is filed by the petitioner under Section 482 of Code of Criminal Procedure, to call for the records relating to the notice in C.No.118/19, 136/19, 1, 64, 121 and 132/ALGSC/KRR/2020, dated 21.09.2020 issued by the 2nd respondent on 23.11.2020 closing the investigation as civil in nature and issue a direction to investigate the case afresh.

2. Mr.R.Erottuchamy, learned Government Advocate (Criminal Side), who accepts notice on behalf of the respondents 1 and 2, on instructions, would contend that the complaint lodged by the petitioner against the private respondents was registered as C.No.118/19, 136/19, 1, 64, 121 and 132/ALGSC/KRR/2020 and after enquiring the petitioner and the private respondents, the second respondent came to a conclusion that the issue between the parties is purely civil in nature. He would further contend that the second respondent closed the petitions filed by the petitioner, after obtaining necessary opinion from the Government Pleader and hence nothing survives for further adjudication in this matter. He also relied upon the decision in **G.Prabakaran vs. Superintendent of Police, Thanjavur**, reported in **2018 4 MLJ (Cr1) 513**, in which, it has been held as follows:

"35.Accordingly, we answer the references in the following manner, while giving certain directions:

(i) Section 482 Cr.P.C. cannot be invoked in all circumstances.

(ii) It is not an alternative remedy to Section 156(3) Cr.P.C. but a repository of inherent power.

(iii) The normal course of remedy on a failure or refusal to record the information is



Section 156(3) of the Code of Criminal Procedure after due compliance of Section 154(3) Cr.P.C.

(iv) A petition can be filed invoking the inherent jurisdiction of this Court only after the completion of 15 days from the date of receipt of the information by the Station House Officer. The Registry shall not receive any petition before the expiry of 15 days aforesaid.

(v) No petition shall be entertained without exhausting the remedy under Section 154 (3) Cr.P.C.

(vi) An informant can send substance of the information to the Superintendent of Police on knowing the decision of the Station House Officer in not registering the case and proceeding with the preliminary enquiry. After conducting the preliminary enquiry, the Station House Officer's decision in either registering the complaint or closing it will have to be intimated to the informant immediately and in any case not later than 7 days. Once such a decision is made, the informant cannot invoke Section 482 Cr.P.C. as the remedy lies elsewhere.

(vii) The directions issued by the Director General of Police in the circulars referred are to be strictly complied with by all the Station House Officers.

(viii) The affidavit to be filed shall contain particulars regarding the date of complaint, receipt and the date of sending substances of the information to the superintendent of Police under Section 154 (3) Cr.P.C. and its receipt. The Registry shall not number any petition without due compliance.

(ix) This Court is not bound to direct the police to register the complaint in all cases not withstanding the breach of time table furnished in Lalitha Kumari's case.

(x) The judicial Magistrates, while dealing the petitions under Sections 156(3) Cr.P.C. are directed to keep in mind the narratives in Lalitha Kumari's case with specific reference to the cases, which might require a preliminary enquiry before issuing a direction to investigate and after careful perusal of the



complaint. The other directions issued by the learned Single Judge in *Sugesan Transport Pvt. Ltd. v. Assistant commissioner of Police J-2, Adayar Police Station Adyar, Chennai 600020 and Others* are upheld.

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(xi) Eschewing Section 156(3) Cr.P.C. is only on exceptional and rarest of rare cases. Monstrosity of the offence, extreme official apathy and indifference, need to answer the judicial conscience, and existence of hostile environment are few of the factors to be borne in mind to bring a case under the rarest of rare one.

The references stands ordered accordingly."

3. The main grievance of the petitioner is that though the petitioner lodged a complaint with the second respondent police to enquire into the allegations levelled against the private respondents, the second respondent, without keeping in mind the guidelines issued in **Lalita kumari vs. Government of Uttarpradesh and Others** reported in **AIR 2014 SC 187**, closed the petitions and therefore, the impugned notice sent to the petitioner in C.No.118/19, 136/19, 1, 64, 121 and 132/ALGSC/KRR/2020, dated 21.09.2020 has to be quashed. The further contention of the petitioner is that there is 13 feet wide common pathway and that one Balasubramaniam and Lakshmi are preventing the petitioner from using the said pathway.

4. The main crux of the issue between the parties is with regard to the usage of common pathway and this is civil in nature. Therefore, the police cannot be found fault with for closing the complaint given by the petitioner. In any event, if the petitioner, is aggrieved by the orders passed by the police, he can approach the jurisdictional magistrate by filing a private complaint under Section 200 Code of Criminal Procedure, if she is so advised.

5. With the above observation, this Criminal Original Petition is dismissed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar (CS)



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Note In view of the present lock down
owing to COVID-19 pandemic, a web
copy of the order may be utilized for
official purposes, but, ensuring that
the copy of the order that is
presented is the correct copy, shall
be the responsibility of the
advocate/litigant concerned.

To

- 1.The Superintendent of Police,
Karur District, Karur - 639 007.
- 2.The Inspector of Police,
Anti Land Grabbing Special Cell,
Karur District, Karur.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.V.NAGARAJAN, Advocate (SR-3465[F] dated 05/02/2021)

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