



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 08.02.2021

WEB COPY

PRESENT

THE HONOURABLE MRS .JUSTICE R.HEMALATHA
W.P(MD) . No.2096 of 2021

Ananthanarayanan

... Petitioner

Vs

1.The Superintendent of Police,
Tenkasi District,
Tenkasi.

2.The Sub Inspector of Police,
Elathur Police Station,
Elathur,
Tenkasi District.

3.Mehab Khan

4.Nawsath

5.Sivakkumar

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 and 2 to conduct proper enquiry and take appropriate action on the petitioner's complaint dated 18.12.2020.

For Petitioner : Mr.J.C.Rathinavel Pandian

For Respondents 1 and 2 : Mr.R.Saravanakumar
Government Advocate (Criminal side)

ORDER

The present petition is filed by the petitioner seeking for direction to the respondents 1 and 2 to conduct proper enquiry and take appropriate action on the petitioner's complaint dated 18.12.2020.

2.Mr.R.Saravanakumar, learned Government Advocate (Criminal side), who accepts notice on behalf of the respondents 1 and 2, on instructions, would submit that the petitioner's complaint dated 18.12.2020 was registered as C.No.G7/4392/TEN/2020 and after conducting enquiry, it was closed on 19.01.2021.



3. In any event, the prayer sought for by the petitioner cannot be entertained in view of the decision passed by a Division Bench of this Court in the case of **G.Prabakaran vs. Superintendent of Police, Thanjavur**, reported in **2018 4 MLJ (Cr1) 513**, wherein the following guidelines were issued:-

"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 notwithstanding 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.

(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."

4. In view of the above, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

cp

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,
Tenkasi District,
Tenkasi.

2.The Sub Inspector of Police,
Elathur Police Station,
Elathur,
Tenkasi District.

W.P (MD) . No.2096 of 2021
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