



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.03.2021

CORAM :

THE HONOURABLE Mrs. JUSTICE **R.THARANI**

Crl.O.P.(MD)No.3662 of 2021

M.Baskar ... Petitioner
Vs.

- 1.The Superintendent of Police,
CBCID, Virudhunagar,
Virudhunagar District.
- 2.The Inspector of Police,
District Crime Branch,
Virudhunagar,
Virudhunagar District.
- 3.The Inspector of Police,
Town Police Station,
Aruppukkottai,
Virudhunagar District.
- 4.Karthigai Selvam
- 5.Dhanasekaran @ Gnana Sekaran ... Respondents

Prayer : Criminal Original Petition filed under Section 482 of Cr.P.C., directing the Judicial Magistrate Court, Aruppukkottai, Virudhunagar District to be taken on file of the petitioner's protect petition dated 10.3.2020, filed in Cr.MP.No.3594 of 2019.

For Petitioner : Mr.R.Murugappan

For Respondents 1 to 3 : Mr.S.Chandrasekar
Additional Public Prosecutor

ORDER

Both sides present.

2.On the side of the petitioner, it is stated that the petitioner filed a protest petition and the same was returned by the Judicial Magistrate and directed the Judicial Magistrate to consider the protest petition filed by the petitioner.

3.On the side of the respondents 1 to 3, it is stated that the petitioner has filed a protest petition with a prayer to transfer the investigation to CBCID and the same was returned on the ground of maintainability. It is further stated that the Magistrate has not forwarded the complaint in Cr.M.P.No.3594 of 2019 for registering an F.I.R and he has directed the respondents only to



enquire into the matter and to file a report. After enquiry, a report was filed before the Judicial Magistrate.

4.On the side of the petitioner, it is stated that the direction of the Magistrate was on 06.05.2019, whereas, the date of the report is 07.03.2019 i.e. two months prior to the date of the order and it is impossible to file a closure report two months prior to the date of order from the Judicial Magistrate.

5.On the side of the respondents 1 to 3, it is stated that instead of 03.07.2019, it was a typographical error in the closure report that the date is wrongly printed as 07.03.2019. The order of the Magistrate was rightly mentioned in the subject portion and that the representation of the petitioner is wrong.

6.A perusal of the records reveals that the petitioner has filed a petition before the second respondent and he has filed a Crl.O.P.(MD)No.12594 of 201 and on the direction of this Court, he approached the Judicial Magistrate and filed a petition under Section 156(3) Cr.P.C. Even after the order of the Judicial Magistrate, dated 06.05.2019, no F.I.R. was registered. The petitioner has filed another petition in Crl.O.P.(MD)No.16378 of 2019, for a direction to the respondent. This Court has passed an order to register a case. The petitioner filed a petition in Cr.M.P.No.3594 of 2019 before the Judicial Magistrate. The Judicial Magistrate referred the case to the respondent for registering a case.

7.The order of this Court is to register a case as per the order of the Judicial Magistrate in Cr.M.P.No.3594 of 2019. In Cr.M.P.No.3594 of 2019. In Cr.M.P.No.3594 of 2019, the Judicial Magistrate has directed the third respondent "to conduct an enquiry and to file a report. If any cognizance offence is made out, to register a case and to conduct an investigation in accordance with law." After enquiry, the third respondent filed a report stating that no cognizable offence was made out. Against that final report, the petitioner had filed a protest petition and that petition was returned by the Judicial Magistrate on the point of maintainability.

8.An opportunity for the petitioner has to be given. Hence, the order of the Judicial Magistrate recording the closure is set aside. The Judicial Magistrate is directed to take up the protest petition for consideration within a period of two weeks from the date of receipt of copy of this order and to verify the merits of the case and to take further action in accordance with law.



9.With the above direction, this petition is disposed of.

Sd/-

Assistant Registrar (P&A)

// True Copy //

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/ /2021

Sub Assistant Registrar(CS)

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 Judicial Magistrate,
Aruppukkottai, Virudhunagar District
- 2.The Superintendent of Police,
CBCID, Virudhunagar,
Virudhunagar District.
- 3.The Inspector of Police,
District Crime Branch,
Virudhunagar,
Virudhunagar District.
- 4.The Inspector of Police,
Town Police Station,
Aruppukkottai,
Virudhunagar District.
Virudhunagar District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P. (MD)No.3662 of 2021

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PSP(12.05.2021) 3P 6C