



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 02.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE G. ILANGO VAN

Crl.O.P. (MD) No.10889 of 2021

WEB COPY

M.Vellaichamy

... Petitioner

Vs.

The State Represented by
Inspector of Police,
Valanadu Police Station,
Trichy District.
(Cr.No.35/2018)

...Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., to direct the learned Judicial Magistrate, Manaparai, Trichy District to number the protest petition filed by the petitioner in Crl.M.P(MD).No..... of 2020 in Crime No.35 of 2018 return dated 06.01.2020, 18.01.2021, 02.02.2021 and 05.03.2021.

For Petitioner : Mr.Vellaichamy
(party-in-person)
For Respondent : Mr.R.M.Anbunithi
Additional Public Prosecutor

ORDER

This petition has been filed to direct the learned Judicial Magistrate, Manaparai, Trichy District to number the protest petition filed by the petitioner in Crl.M.P(MD).No..... of 2020 in Crime No.35 of 2018 return dated 06.01.2020, 18.01.2021, 02.02.2021 and 05.03.2021.

2.Based upon the complaint dated 10.03.2018, the respondent registered the case in Crime No.35 of 2018 for the offence punishable under Sections 363, 380 and 448 of IPC. After conducting the investigation, the respondent has filed a final report before the learned Judicial Magistrate, Manaparai, Trichy District as mistake of facts. The respondent police did not serve RCS notice to the petitioner. Therefore, the petitioner was not in possession to file protest petition before the concerned Court.



3.After knowing about the closure of the case and the acceptance of the final report stating the case as Mistake of Fact by the learned Judicial Magistrate, Manaparai, Trichy District, the petitioner filed a protest petition on 04.01.2021, the same was returned on 06.01.2021 for complying certain defects. After rectifying the defects, the petition was represented on 18.01.2021, on the very same day, which was returned stating that previous order of return dated 06.01.2021 was not yet complied with. Once again, the petition was represented on 02.02.2021, but on the same date itself it was returned without assigning any reason. Subsequently on 02.03.2021, it was represented and returned on 05.03.2021. Again on 08.03.2021, it was represented and returned on 10.03.2021. Finally, the petitions were represented on 18.03.2021 and returned on 22.03.2021 with untenable reasons.

4.The petitioner is the defacto complainant in the above said crime number. This Court is need not elaborate the facts of the case.

5.The learned Additional Public Prosecutor would submit that based upon the complaint given by the defacto complainant, enquiry was undertaken, during the course of enquiry it was found that this is a case of mistake of fact, so the closure report was submitted before the learned Judicial Magistrate Court, Manaparai. He further submitted that during the course of hearing, the petitioner filed protest petition and the same was returned several times by the Court below for rectifying the defects and would further submit that the petitioner appeared before the Court below as party in person, so that he could not understand the defects as pointed out by the Court below. Therefore, this Court may issue a direction to the learned Judicial Magistrate, Manaparai to appoint a Legal Aid Counsel to assist the petitioner properly and re-present the protest petition returned by the Court below.

6.Considering the facts and circumstances of this case, this Court directs the learned Judicial Magistrate, Manaparai, to appoint a legal Aid Counsel attached to the Manaparai Legal Service Authority to assist the petitioner to properly re-present the protest petition after rectifying the mistakes pointed out by the Court below. The petitioner is directed to co-operate with the trial Court as well as the legal Aid Counsel to be appointed by the concerned Court.

7.The Registry is directed to retrun the original petition to the petitioner, enabling him to re-present the same before the Court below. The Registry is directed to number the protest petition filed by the



petitioner in Crl.M.P(MD).No..... of 2020 in Crime No.35 of 2018. Accordingly, this Criminal Original Petition is allowed.

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Sd/-

Assistant Registrar (CS I)

// 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 Inspector of Police,
Valanadu Police Station,
Trichy District.
- 2.The Judicial Magistrate,
Manaparai.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to

The Section Officer,
English Records Section,
Madurai Bench of Madras High Court,
Madurai.

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NSN (CO)
SB(16.09.2021) 3P 6C