



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 09.09.2021

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Crl.O.P. (MD)No.11305 of 2021

N.Sundarapandian

... Petitioner / Petitioner

Vs.

State through Inspector of Police,
Sivagangai Town Police Station,
Sivagangai District,
Sivagangai.

... Respondent / Respondent

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records pertaining to Cr.M.P.No.2689 of 2021 dated 06.07.2021 on the file of the Judicial Magistrate No.1, Sivagangai and set aside the same and direct the respondent to register a case based on the complaint given by the petitioner dated 04.04.2021.

For Petitioner : Mr.N.Tamilmani
For Respondent : Mr.R.M.Anbunithi,
Additional Public Prosecutor.

ORDER

This Criminal Original Petition is filed to quash the records pertaining to Cr.M.P.No.2689 of 2021, on the file of the Judicial Magistrate No.1, Sivagangai, dated 06.07.2021.

2. The case of the petitioner is that the petitioner is a licensed contractor in Sivagangai Municipality. He is doing Civil Works like drainage, laying pipe etc., as a contractor. On 04.04.2021, at about 10.30 p.m, the petitioner was inspecting the works done at Sivagangai bus stand by workers. At that time, one Ulaganathan, who is working as Supervisor at Sivagangai Municipality, came to the spot and demanded a sum of Rs.2,00,000/- as bribe and stating that only on the payment of the above said bribe, he can enhance his bill amount. On the next day, the said Ulaganathan, threatened and abused him and also assaulted him. So, he lodged a complaint, on the same day itself. Similarly, the above said Ulaganathan filed a complaint against the petitioner and his brother-in-law and the same was registered, in Crime No.204 of 2021 for the alleged offences under Sections 147, 294(b), 353, 332 and 506 (i) IPC and they were granted anticipatory bail, by this Court, dated 09.04.2021. But, whereas, the complaint given by the petitioner, was not property



registered. So, he filed a petition in Crl.MP.No.2689 of 2021 before the learned Judicial Magistrate No.1, Sivagangai for registering First Information Report and order was passed, on 06.07.2021, to the effect that no *prima facie* ground is made for registering the First Information Report and so, it was taken on file under Section 200 Cr.P.C. For recording the sworn statement of the petitioner, it was posted on 14.07.2021. Seeking quashment of the above said order, this petition came to be filed.

3. A grievance of the petitioner is that since the counter case given by the above said Ulaganathan, a case has been registered and a complaint, given by the petitioner, was not properly enquired and so, the registration of the First Information Report will only give proper result.

4. But, it is a settled law that the power of the Magistrate, either to proceed under Section 156 (3) Cr.P.C or Section 200 Cr.P.C is unquestionable. But, however, the learned Magistrate has made a observation to the effect that no *prima facie* ground is made for registering the First Information Report. But, this is unnecessary since he failed to proceed under Section 156 Cr.P.C, recorded the statement of the petitioner. So, this observation will make unnecessary trouble to the petitioner, at the time of enquiry and trial. So, this observation alone is removed from the order and the petitioner is directed to co-operate with the learned Judicial Magistrate, to complete the enquiry.

4. With the above said direction, this petition stands disposed of.

Sd/-

Assistant Registrar (AD II)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

dss

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 No.1,
Sivagangai.

2.The Inspector of Police,
Sivagangai Town Police Station,
Sivagangai District,
Sivagangai.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.N.TAMILMANI, Advocate (SR-28861[F] dated 13/09/2021)

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