



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.ILANGO VAN

Crl.O.P. (MD) No.9999 of 2019

WEB COPY
Marimuthu

.. Petitioner/Petitioner

Vs.

- 1.Thevigapandiyan
- 2.Ramesh
- 3.Moorthi
- 4.Kala
- 5.Venkatesh
- 6.Boopathi
- 7.Chokkalingam
- 8.Saravanan
- 9.Jayakumar
- 10.Subramaniyan

.. Respondents/Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for records in Cr.M.P. Unnumbered of 2019 pertaining to the petition filed under Section 200 of Cr.P.C. on the file of the Judicial Magistrate, Aruppukottai, dated 22.05.2019 and set aside the same as illegal and consequently, direct the learned Judicial Magistrate, Aruppukottai to decide the matter on merits.

For Petitioners : Mr.T.Lajapathi Roy

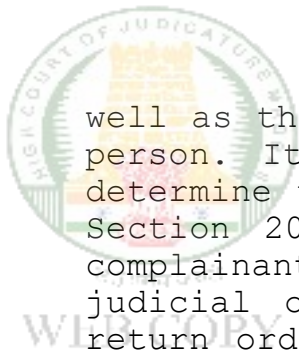
ORDER

This petition has been filed seeking order setting aside the order passed in Cr.M.P. Unnumbered of 2019 pertaining to the petition filed under Section 200 of Cr.P.C. on the file of the Judicial Magistrate, Aruppukottai, dated 22.05.2019 and consequently, direct the learned Judicial Magistrate, Aruppukottai to decide the matter on merits.

2.The case of the petitioner is that he has filed a criminal complaint against the accused persons before the trial Court under Section 200 Cr.P.C. That complaint was came to be returned by the trial Court setting out several grounds. Challenging the above said return order, this petition came to be filed.

3.Heard the learned counsel for the petitioner.

4.Perusal of the returned order shows that various grounds has been raised by the trial court with regard to the maintainability of the complaint. It also questioned the manner of allegation and as



well as the offence that said to have been committed by the accused person. It may not be proper on the part of the trial Court to determine the complaint that has been filed by the petitioner under Section 200 Cr.P.C. even without recording the statement of the complainant. Only after recording the statement of the complainant a judicial order ought to have been passed by the trial Court. A return order will not partake the character of the judicial order. On the sole ground the return order liable to be set aside.

5. Accordingly, this criminal original petition is allowed and the order passed by the learned Judicial Magistrate, Aruppukottai, is hereby set aside. The petitioner is directed to represent the complaint before the concerned Court and on receipt of the petition the trial Court shall process the same as per law and proceed. For the purpose of represent the original complaint before the trial Court, Registry is directed to return the original complaint filed by the petitioner before this Court, by replacing the same with a xerox copy.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

TM

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

The Judicial Magistrate,
Aruppukottai.

COPY TO:-

The Section Officer,
E.R.Section,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-36339[F]
dated 29/11/2021)

Crl.O.P. (MD)No.9999 of 2019

26.11.2021

SAR (CO)

GC(28.12.2021) 2P 4C

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