



WEB COPY



WP.No.23664/2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

WP.No.23664/2016

Ganesan @ Kaliyanna Gounder

... Petitioner

Vs

1.The District Munsif
Namakkal District.

2.The District Legal Services Authority
Tiruchengode Road,
Namakkal 637 003.

... Respondents

Prayer: Writ Petition filed Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the learned District Munsif, Namakkal, viz., the 1st respondent herein to enquire into the writ petitioner's complaint dated 30.11.2015 by exercising his power under section 340 Cr.P.C. and in accordance with 195[i][b] r/w Section 340 Cr.P.C.

For Petitioner	: Mr.D.Shivakumaran
R1	: Court
For R2	: Mrs.V.Yamunadevi
	Special Govt. Pleader



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ORDER

- (1) Challenge in this writ petition is to the action of the learned District Munsif, Namakkal, the 1st respondent herein, in transferring the complaint lodged by the petitioner complaining that a forged document has been produced in Court and a decree has been obtained based on that forged document to the District Legal Services Authority.
- (2) The main premise on which the petitioner had approached this Court is that the learned District Munsif ought to have followed the procedure prescribed under Section 340 of Cr.P.C., since the offence complained of would come under Section 195 of Cr.P.C.
- (3) Mr.D.Shivakumaran, learned counsel for the petitioner would submit that the learned District Munsif was not justified in transferring the matter to the District Legal Services Authority for resolution since the petitioner has complained of a criminal offence having been committed under Section 195 of Cr.P.C.
- (4) Section 340 of Cr.P.C. details the procedure to be followed by the



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Court when an offence under Section 195 of Cr.P.C., is brought to its notice.

- (5) Unfortunately, for the petitioner, the Hon'ble Supreme Court has made a distinction between an offence committed when a document is in the custody of the Court and an offence committed prior in point of time. The Hon'ble Supreme Court, in ***C.P.SUBHASH VS. INSPECTOR OF POLICE, CHENNAI AND OTHERS*** reported in ***2013 [11] SCC 559***, has held that if the offence is committed outside the Court, that is, before the document being put in the custody of the Court, Section 195 of Cr.P.C., may not strictly apply and it will be for the complainant to approach a regular Magistrate for an offence of forgery etc., under the Indian Penal Code. The Hon'ble Supreme Court has dealt with the scope of Section 195 of Cr.P.C. and held that Section 195 cannot be invoked when the petitioner complains that a forged document or a false evidence has been produced before the Court. In view of the said categorical pronouncement of the Hon'ble Supreme Court, the very complaint of the petitioner before the learned District Munsif, becomes



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unsustainable and hence, the writ petition is dismissed.

(6) It is however made clear that the District Legal Services Authority, Namakkal, is also not a competent authority inasmuch as the action complained of would amount to a criminal offence which is non-compoundable, if proved. Therefore, the District Legal Services Authority which functions under the Legal Services Authority Act, 1987, cannot take cognizance of the complaint and attempt a settlement or mediation.

(7) Therefore, while dismissing the writ petition, I also make it clear that the District Legal Services Authority shall not proceed with the complaint that now stands transferred to it. The said complaint will stand rejected with liberty to the petitioner to have recourse to appropriate criminal Court. No costs.

08.07.2022

AP

Internet : Yes



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To

- 1.The District Munsif
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R.SUBRAMANIAN, J.

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