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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated:18/04/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Cr1.OP(MD)No.9745 of 2019

P.Seela Jerlin Mery : Petitioner

Vs.

1.The Commissioner of Police,
Office of the Commissioner,
Madurai District. : R1/Complainant

2.State through Inspector of
Police (L & O),
Theppakulam Police Station,
Madurai District. : R2/De-facto Complainant

Prayer: Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records and set aside the report, dated 30/06/2019 on the file of Judicial Magistrate No.1, Madurai, which was filed by the 2nd respondent and consequently, direct to register the First Information Report, based upon the order in Cr.M.P No.2282 of 2019, dated 07/05/2019 passed by the Judicial Magistrate No.1, Madurai District.

For Petitioner : Mr.S.Moorthy

For Respondents : Mr.SS.Madhavan
Government Advocate
(Criminal side)

**ORDER**

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The criminal original petition has been filed seeking in order to set aside the report, dated 30/06/2019 on the file of Judicial Magistrate No.1, Madurai, which was filed by the 2nd respondent and consequently, direct to register the First Information Report, based upon the order in Cr.M.P No.2282 of 2019, dated 07/05/2019 passed by the Judicial Magistrate No.1, Madurai District.

2.The case of the petitioner before the trial court in brief:-

On 21/03/2019 at about 10.00 am, the proposed accused made a trouble to the petitioner, while he was repairing the drainage pipe line and subsequently, the petitioner found a spy camera in the proposed accused building for capturing the petitioner privacy moment. Because of that, quarrel arose between them. At that time, the accused persons alleged to have been made a life threat and also abused her in filthy language.



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3. Based upon which, a complaint was filed. But no action was taken. However, the 2nd respondent police came to the occurrence place and removed the spy camera. Thereafter, no action was taken upon the complaint. So she filed a petition in CrI.MP No.2282 of 2019 seeking a direction for registering the FIR, whereupon, an order has been passed and a direction was given to the Inspector of Police, Teppakulam, to conduct the investigation. But actually, the 2nd respondent investigated the matter and filed a final report in respect of the petitioner's brother complaint, dated 19/03/2019. But whereas against the date of occurrence in CrI.MP No.2182 of 2019, dated 21/03/2019 in respect of the above said occurrence, no proper investigation was undertaken. It is the duty of the 2nd respondent to investigate the matter, in pursuance of the direction issued by the Judicial Magistrate No.1, Madurai. This petition has been filed seeking a direction to the 2nd respondent to register a case, in pursuance of the order that has been passed by the Judicial Magistrate No.1, Madurai, in the above said Criminal Miscellaneous Petition.



4.Heard both sides.

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5.The learned Government Advocate (Criminal side) has filed a status report, wherein, it has been stated that both the petitioner and the counter petitioner are close relatives and there was a wordy quarrel between them, on 19/03/2019, over using of the common path and toilet. The counter petitioner preferred a complaint before B-3, Teppakulam Police Station. That was enquired in CSR No.121 of 2019. Similarly, the petitioner also preferred a complaint, which was also enquired in CSR No. 123 of 2019 and both the complaints were enquired and the Enquiry Officer found that both the parties have quarrelled between them and finding that, it is a civil issue, he advised them to act accordingly and both the complaints have been closed, on 21/03/2019.

6.Against the above said closure, the petitioner filed a complaint in Cr.M.P. No.2282 of 2019 before the Judicial Magistrate No.1, Madurai, under section 156(3) Cr.P.C. That was also forwarded for necessary action and investigate the matter. That was also enquired and a report was also submitted, on 31/05/2019 stating that



even during the course of enquiry, the above mentioned both the parties have agreed to resolve their dispute through the civil process. Over the above, they have filed a closure report. That was accepted by the Judicial Magistrate No.1, Madurai and it was closed, on 31/05/2019. After that, the petitioner preferred a complaint against the counter petitioner, on 14/09/2020 and a case was registered in Crime No.1129 of 2020 for the offences under sections 294(b), 323 and 506(ii) IPC, on 16/09/2020 and final report was also filed, on 15/02/2021.

7.The learned counsel appearing for the petitioner, at the time of argument, would submit that the complaint, which was closed by the first respondent was only with reference to the complaint given by her brother and in so far the complaint given by her is concerned, a case has not been registered. But however, from the status report, it is seen that subsequent to the closure of the earlier complaint and counter complaint, another complaint was given by the petitioner and upon which, a case has been registered. So the grievance of the petitioner has been redressed by way of registering the complaint. So nothing survives.



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8. Finding that, some sort of missing information, the entire records have been called for from the Judicial Magistrate No.1, Madurai. Upon which, the entire records have been submitted. The records shows that the petitioner filed a petition under section 156(3) Cr.P.C and after receiving the report, it was closed, on 31/05/2019. It is further seen that it is a long standing dispute between the petitioner and the counter petitioners, who are not before this court. So the dispute is between the close relatives, over a common pathway. The status report for the earlier complaint given by the petitioner's brother came to be closed, based upon the undertaking given by them to work out their remedy through civil process.

9. It appears that after that, trouble has arisen. Based upon the subsequent event, the above said case has been registered. Since the grievance of the petitioner has been redressed by way of registering the above said case, I find that no further direction is required in this petition. More-over, if the petitioner is aggrieved by the closure report, she can very well file a private complaint before the concerned court. So the question of



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directing the 2nd respondent to register the case and investigate the matter may not arise.

10. In view of the above said development, this criminal original petition is **dismissed** as infructuous.

18/04/2022

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Internet:Yes/No
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G. ILANGO VAN, J

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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 Commissioner of Police,
Office of the Commissioner,
Madurai District.
- 2.State through Inspector of
Police (L & O),
Theppakulam Police Station,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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