



CrI.O.P.(MD) No.13307 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.07.2022

CORAM:

THE HONOURABLE MR. JUSTICE **V.SIVAGNANAM**

CrI.O.P.(MD) No.13307 of 2022

S.Vasantha,

: Petitioner

Vs

1. Bensen,
Sub Inspector of Police,
Thattarmadam Police Station,
Thoothukudi District

2. Rajiv,
Deputy Superintendent of Police,
Sathankulam,
Thoothukudi District.

: Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying this Court to set aside the returned docket order dated 24/06/2022 in filing No.Nil on the file of the learned Judicial Magistrate, Sathankulam and allow this Criminal Original Petition and consequently direct the learned Judicial Magistrate Court, Sathankulam.



Crl.O.P.(MD) No.13307 of 2022

For Petitioner : M/s. Sivakumar.S,
For Respondents : Mr.R.Suresh Kumar,
Government Advocate (Crl.Side)

ORDER

This criminal original petition has been filed seeking to set aside the return docket order dated 24/06/2022 in filing No.Nil, on the file of the learned Judicial Magistrate, Sathankulam and consequently to direct the learned Judicial Magistrate Court, Sathankulam.

2.The learned Counsel appearing for the petitioner submitted that the petitioner filed a private complaint under Section 200 Cr.P.C, accusing the respondents for the offences under Sections 341, 294(b) and 506(1) r/w Section 4 of Tamil Nadu Prohibition of Women Harassment Act, 1998. On 24.06.2022, the learned Judicial Magistrate, Sathankulam, returned the complaint on the ground that the previous rectifications are not complied with. Further, he submitted that the learned Judicial Magistrate, on receiving a complaint under Section 200 Cr.P.C, has to examine the same on oath and the witnesses, if any present and after taking cognizance, the learned Judicial



CrI.O.P.(MD) No.13307 of 2022

Magistrate has to issue process to the accused persons or postpone the issue of process under Section 402 of Cr.P.C. But returning the complaint is legal. Hence he pleaded to set aside the said order.

3.I have heard the submissions made by both the parties.

4.On a perusal of records, it would reveal the fact that the petitioner is living with her husband and three daughters in the petition mentioned address. One Suyambulingam, who is also a resident of the petitioner's locality, trespassed into her property and installed electric pole. In this regard, a suit in O.S.No.08 of 2022 has been filed before the District Munsif Court, Sathankulam and the same is pending. On 22.02.2022, the petitioner lodged a complaint against the said Suyambulingam alleging that he threatened the petitioner with dire consequences. But, so far no action was taken on the said complaint. Thereafter, on 04.03.2022, the first respondent fabricated a false report on the complaint of the petitioner and also compelled her to leave the property. Again, on 27.04.2022, the accused persons threatened the petitioner, abused with filthy language and also assaulted her. Hence, she filed a private complaint, but the same was dismissed by the Judicial Magistrate Court,



CrI.O.P.(MD) No.13307 of 2022

Sathankulam with the following endorsement:

'Petitioner present.

Explanations perused.

*Previous rectifications not
complied.*

Hence returned.'

5.In view of the above, this Court is of the considered opinion that since the return order was passed without examining the complaint and witnesses, it is liable to be set aside. Therefore, the return order, dated 24.06.2022, passed by the learned Judicial Magistrate, Sathankulam, is hereby set aside. Further, the learned Judicial Magistrate, Sathankulam, is directed to take cognizance of the petitioner's complaint and examine the complainant and witnesses, if any produced by the complainant, pass orders on merits and in accordance with law, within a period of six months, from the date of receipt of a copy of this order.



CrI.O.P.(MD) No.13307 of 2022

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6. With the above directions, this criminal original petition stands allowed.

25.07.2022

Internet: Yes
Index: Yes/No
Speaking/Non speaking order
lr



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Crl.O.P.(MD) No.13307 of 2022

V.SIVAGNANAM, J.

lr

To

1.The Sub Inspector of Police,
Thattarmadam Police Station,
Thoothukudi District

2. The Deputy Superintendent of Police,
Sathankulam,
Thoothukudi District.

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

Crl.O.P.(MD) No.13307 of 2022

25.07.2022