



CrI.O.P.(MD) No.17008 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 13.10.2022

PRONOUNCED ON : 25.11.2022

CORAM

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CrI.O.P (MD) No.17008 of 2022

Kalanthar Aasik Ahamed

...Petitioner

VS

1.The Superintendent of Police,
Ramanathapuram District.

2.The Inspector of Police,
Thondi Police Station,
Ramanathapuram District.

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to direct the Inspector of Police, Thondi Police Station, Ramanathapuram District to comply with the order passed by the learned Judicial Magistrate, Thiruvadanai, Ramanathapuram District in Cr.M.P.No. 2907 of 2022 dated 08.09.2022 by registering an FIR on the basis of the complaint dated 03.08.2020 and in the light of the dictum laid down by the Hon'ble Apex Court in the case of Dilawar Singh Vs. State of Delhi reported in (2007) 12 SCC 641.

For Petitioner : Mr.R.Anand



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For Respondent : Mr.T.Senthil Kumar
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to direct the second Respondent to comply with the order passed by the learned Judicial Magistrate, Thiruvadanai, Ramanathapuram District in Cr.M.P.No.2907 of 2022 dated 08.09.2022 by registering the First Information Report, on the basis of the complaint dated 03.08.2020.

2. The brief facts which are necessary to appreciate the facts of the case are as follows:

2.1.The Petitioner is a practising Lawyer. He was arrested on an alleged complaint from Rajalakshmi. Based on which FIR in Crime No.55 of 2020 for the offences under Sections 294(b), 354A of IPC and Section 3(1)(r), 3(1)(s), 3(1)(w)(ii) of SC/ST (Prevention of Atrocities) Act, 1989 and he was remanded. Subsequently, he was granted bail. After release on bail, he had filed a petition under Section 156(3) of Cr.P.C. in Crl.M.P.No. 2907 of 2022 before the learned Judicial Magistrate, Thruvadanai, against



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(1) the Deputy Superintendent of Police, Thiruvadanai Sub Division, Ramanathapuram District; (2) the Sub Inspector of Police, Thondi Police Station, Ramanathapuram District; (3) the Sub Inspector of Police, Special Branch, Thiruvadanai Sub Division, Ramanathapuram District; (4) the Sub Inspector of Police, Thondi Police Station, Ramanathapuram District; (5) the Inspector of Police, All Woman Police Station, Thiruvadanai; (6) Inspector of Police, Thondi Police Station, Thondi and (7) the Inspector of Police, Thondi Police Station, Thondi, are Respondents. After recording the sworn statement of the Petitioner herein as De-facto Complainant, the learned Judicial Magistrate, Thiruvadanai, had directed the 7th Respondent therein to hold enquiry and, if any cognizable offence is made out, to register FIR.

2.2.The Inspector of Police, Thondi Police Station, had not acted as per the direction of the learned Judicial Magistrate, Thiruvadanai. Therefore, the Petitioner had approached this Court seeking direction to the Inspector of Police, Thondi Police Station, Thondi, to register FIR against the police officials viz., (1) the Deputy Superintendent of Police, Thiruvadanai Sub Division, Ramanathapuram District; (2) the Sub



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Inspector of Police, Thondi Police Station, Ramanathapuram District; (3) the Sub Inspector of Police, Special Branch, Thiruvadanai Sub Division, Ramanathapuram District; (4) the Sub Inspector of Police, Thondi Police Station, Ramanathapuram District; (5) the Inspector of Police, All Woman Police Station, Thiruvadanai; (6) Inspector of Police, Thondi Police Station, Thondi for registration of case against the Petitioner and foisting a case against him and remanding him. Therefore, this Criminal Original Petition had been filed seeking direction to register an FIR against the said officials.

3.The learned Counsel for the Petitioner would submit that the Petitioner is a practising lawyer and due to animosity, the Police had foisted a case against him. They have remanded him in Crime No.54 of 2020 before the learned Judicial Magistrate, Thiruvadanai. As per the remand request made by the Police Officials, the learned Judicial Magistrate had remanded the accused/the Petitioner herein. The learned Judicial Magistrate, Thiruvadanai had observed the injuries on the accused, when the accused was produced before him and passed the following order at the time of remand.

“ Accused produced on 14.05.2020 at 12.30 hrs at PCR



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Court, Ramnad by SI of Police. Mr.Saravanan and Inspector Mrs. Ezhilarasi. Reasons and legal aid all are explained to accused. Grounds of arrest and reason for remand are satisfactory. Accused informed that he was assaulted by SI Saravanan and DSP Mr.Pugalendhi Ganesh and sustained injuries over his right frontal region of head and he wants to give treatment and treatment is also recommended through the Ramnad Jail Superintendent if necessary. Medical examination of the accused is completed and no contact with covid.19. Information of arrest duly intimated to his relative. Accused states that he has means to engage an advocate. Accused is remanded into judicial custody till 28.05.2020”

4.The learned Counsel for the Petitioner invited the attention of the Court to the injuries recorded by the Medical Officer on duty:

“ Injury to scalp 1 week ago. ..LOC/vomitting/.. ”

5.Therefore, the learned Counsel for the Petitioner seeks direction from this Court to direct the second Respondent/the Inspector of Police, Thondi Police station, Ramanathapuram District, to comply with the order passed by the learned Judicial Magistrate, Thiruvadanai, Ramanathapuram District in Cr.M.P No.2907 of 2022 dated 08.09.2022 by registering the First Information Report, on the basis of the complaint dated 03.08.2020 and in the light of the dictum laid down by the Hon'ble Supreme Court in the case of ***Dilawar Singh Vs State of Delhi*** reported in ***(2007)12 SCC 641***.



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6.The learned Additional Public Prosecutor for the Respondents would submit that the Petitioner had already filed a criminal complaint under Section 156(3) before the learned Judicial Magistrate, Thiruvadanai, based on which, the petition is under enquiry.

7.The learned Additional Public Prosecutor would further submit that the learned Judicial Magistrate, Thiruvadanai, on receipt of the complaint preferred by the Petitioner under Section 156 (3) Cr.P.C., had directed the Police Officials to conduct enquiry and to register the FIR, if it is found that cognizable offence is made out. The second Respondent, on receipt of the orders of the learned Judicial Magistrate, Thiruvadanai, had conducted the preliminary enquiry. From the enquiry, it was found that the Petitioner had fell down and injured accidentally, but had lodged the case as though he was assaulted by the Police. Therefore, the First Information Report was not registered and the petition was closed.

8.Considering the submission of the learned Counsel for the Petitioner, it is found that it is a petition filed by the Petitioner seeking direction against the Police to register the FIR. If the Police had attacked the



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Petitioner, the attempt of the Petitioner to register the FIR did not receive proper response from the Respondents.

9.Under those circumstances, as per the Human Rights Act, for violation of human rights, the Petitioner, who is a practising lawyer, can very well file a private complaint against the Police Officials. As per the Human Rights Act and the reported ruling of the Hon'ble Supreme Court regarding human rights violations, it was earlier directed by the Hon'ble Supreme Court that the Court of the learned District Judge alone is competent to conduct an enquiry regarding human rights violation committed by the Police Officials. Subsequently, the Rules were changed that in the matters of human rights violation, the affected party can approach the Jurisdictional Magistrate by filing a private complaint. In that private complaint, if the learned Judicial Magistrate concerned after conducting trial arrives at a conclusion, then he can pass appropriate orders.

10.Therefore, the reliance placed by the learned Counsel for the Petitioner will not be helpful to the case on hand. It is a case, where the Petitioner is alleged to have been attacked by the Deputy Superintendent of



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Police. The Petitioner seeks to register the FIR in the local Police Station.

Considering that complaint, which is against the Police Official, who is Superior to the Station House Officer, the Police cannot be expected to register the FIR. When the Petitioner seeks indulgence of this Court under Section 482 Cr.P.C., this Court cannot interfere, based on the averments made in the petition.

11.At this stage, the learned Counsel for the Petitioner, in support of his contention, relied on the judgment of this Court in the case of ***Sugesan Transport Private Limited Vs. The Assistant Commissioner of Police, J2, Adyar Police Station, Chennai and other*** reported in **2016 (5) CTC 577**, wherein, it had been stated as follows:-

“99. As a sequel to the aforesaid discussion, the following directions are issued:

(i) A petition under [Section 482, Cr.P.C.](#) for a direction to register an FIR on the complaint of the petitioner circumventing the time table prescribed by the Supreme Court in Lalita Kumari-IV and V is not maintainable.

(ii) This Court directs all the Station House Officers in the State of Tamil Nadu and Union Territory of Puducherry to receive any complaint relating to the commission of cognizable offence by a common man and if the Station House Officer wants to conduct a



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preliminary enquiry, he shall immediately issue a CSR receipt (in case of Tamil Nadu) or issue a separate receipt (in case of Union Territory of Puducherry) to the complainant and after making the necessary entries in the Station General Diary, as directed by the Supreme Court in Lalita Kumari-IV and V, conduct preliminary enquiry. In Lalita Kumari-IV, the Supreme Court has directed that after conducting preliminary enquiry, if the police come to the conclusion that no FIR need be registered, a duty is cast upon the police to furnish a copy of the closure report to the complainant. After getting the closure report, it is open to the complainant to file a petition under [Section 156\(3\) Cr.P.C.](#) or private complaint under [Section 190](#) read with [Section 200 Cr.P.C.](#) disclosing the facts and persuading the Magistrate to take cognizance of the offence. Such a petition/private complaint should disclose the closure report of the police. After taking cognizance of the offence, the Magistrate can also order police investigation under [Section 202, Cr.P.C.](#) to a limited extent. The closure report cannot be subject to judicial review under [Section 482, Cr.P.C.](#)

(iii) If the Station House Officer refuses to receive the complaint, the complainant shall send the complaint together with a covering letter to the Superintendent of Police/Deputy Commissioner of Police by Registered Post with Acknowledgment Due under [Section 154\(3\), Cr.P.C.](#)

(iv) If there is inaction on the part of the Station House Officer and the Superintendent of Police, the complainant is at liberty to move the jurisdictional Magistrate under [Section 156\(3\) Cr.P.C.](#)



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(v) *The complaint shall be given to the Magistrate either in Tamil or in English in the form of a representation in first person addressed directly to the Magistrate.*

(vi) *The complaint shall be accompanied by an affidavit as mandated by the Supreme Court in Priyanka Srivastava.*

(vii) *On receipt of the complaint, the Magistrate shall pass orders thereon within 15 days, either issuing directions or dismissing the petition.*

(viii) *If the Magistrate decides to order police investigation, he should pass a judicial order to that effect in the record sheet.*

(ix) *A copy of the order, together with original complaint and copy of the affidavit, shall be forwarded by the Magistrate to the jurisdictional police officer for investigation.*

(x) *If the police officer does not register FIR within a period of one week from the date of receipt of the Magistrate's order, the Magistrate shall initiate prosecution against him under [Section 21](#) read with Section 44 of the District Police Act before the Chief Metropolitan Magistrate or the Chief Judicial Magistrate, as the case may be.*

(xi) *If no FIR is registered by the police within one week from the date of receipt of a copy of the order of the Magistrate under [Section 156\(3\), Cr.P.C.](#), the complainant can approach this Court under [Section 482, Cr.P.C.](#)*

(xii) *If the police fail to complete the preliminary enquiry within six weeks as mandated by the Supreme Court in Lalita Kumari-*



V, the complainant can approach this Court under [Article 144](#) read with [Section 482, Cr.P.C.](#)

*(xiii) The aforesaid petition under [Article 144](#) read with [Section 482, Cr.P.C.](#) must be accompanied by an affidavit sworn to by the complainant with satisfactory materials to show that the police have not completed the preliminary enquiry within six weeks, as mandated by the Supreme Court in *Lalita Kumari-V*. In such a petition, this Court will not read the complaint, but, issue directions to the police to register an FIR on the complaint for the very failure of the police to follow the mandates of *Lalita Kumari-IV* and *V*. The Registry of this Court shall not number the petition filed under [Section 482, Cr.P.C.](#) seeking a direction to register an FIR unless it is accompanied by an affidavit containing the above details.*

*(xiv) In suitable cases, this Court shall also direct disciplinary action to be taken against the police officer for the violation of the mandates of *Lalita Kumari - IV* and *V*.*

(xv) If the police officer fails to register the FIR pursuant to the directions of this Court, he will be liable for contempt of Court, besides facing disciplinary action.

(xvi) The aggrieved party can also approach the local Legal Services Authority and the Authority shall take immediate steps to ensure that an FIR is registered or CSR receipt issued to the complainant.

(xvii) Every police station shall have a board giving the name and telephone number of the local Legal Services Authority.”



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12.The learned Additional Public Prosecutor for the Respondents by way of reply would submit that if the Petitioner's submission is accepted, the Police had to register the FIR in almost all the cases received by them. Here, the learned Judicial Magistrate, Thiruvadanai, on receipt of the complaint under Section 156(3) Cr.P.C from the Petitioner, had directed the Respondents to hold enquiry and from the enquiry, if it is found that the allegations made by the Petitioner are true and cognizable offence is made out, the Police can register the FIR and investigate the same. Here, the Police had closed the enquiry, as it is found that the allegation is false. Filing of this petition seeking direction to register the case cannot be accepted, in the light of the submission made by the learned Counsel for the Petitioner and the learned Additional Public Prosecutor for the Respondents.

13.The offences alleged by the Petitioner against the Police Officials are found acceptable in the light of the remand recorded by the learned Judicial Magistrate, Thiruvadanai.

14.As per the Petitioner's arguments, the Petitioner was produced



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before the learned Judicial Magistrate, Thiruvadanai. The learned Judicial Magistrate, Thiruvadanai had recorded that the Petitioner herein as Accused No.5 had stated that he had some dispute with the police officials due to his professional work. Therefore, he had wrongly arrayed in this case and the Accused were remanded by the learned Judicial Magistrate, Thiruvadanai. After release on bail, the Petitioner had filed Crl.M.P.No.2709 of 2007. The Police Officials had conducted the enquiry and closed it as false case. Therefore, the Petitioner had approached this Court directing to register FIR.

15.In the light of the above, the Respondents 1 and 2 are directed to hold enquiry and register a case against the Police Officials, if cognizable offence is made out, as per the reported ruling of the Hon'ble Supreme Court in the case of *Lalita Kumari -vs- Government of Uttar Pradesh and others [(2014) 2 SCC 1]*.

In the result, **this Criminal Original Petition is disposed of.** The Petitioner can approach this Court, if he is aggrieved by the inaction on the part of the Respondents 1 and 2 even after directions issued by this Court.



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To

- 1.The Judicial Magistrate,
Thiruvadanai,
Ramanathapuram District.
- 2.The Superintendent of Police,
Ramanathapuram District.
- 3.The Inspector of Police,
Thondi Police Station,
Ramanathapuram District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SATHI KUMAR SUKUMARA KURUP, J.

aav/mm

Order made in
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