



W.P.(MD)No.23467 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.10.2022

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P.(MD)No.23467 of 2022

S.S.Mani

... Petitioner

/vs./

**1.The Superintendent of Police,
Thoothukudi District, Thoothukudi.**

**2.The Inspector of Police,
Kovilpatti West Police Station,
Thoothukudi Distrcit.**

3.Sivakumar

4.Banumathy

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondent to conduct enquiry/investigation based on the petitioner's complaint dated 24.08.2022 submitted to the first respondent which was forwarded to the second respondent.

For Petitioner : Mr.R.Murugan

**For Respondents : Mr.B.Nambiselvan
Additional Public Prosecutor**

ORDER

Heard the learned Counsel for the Petitioner and the learned Additional Public Prosecutor for the Respondents 1 and 2. By consent, this Writ Petition is taken up for final disposal.



W.P.(MD)No.23467 of 2022

2.The learned Counsel for appearing for the Petitioner submits that the Petitioner had filed this Writ Petition seeking a direction against the Respondents 1 and 2 to conduct enquiry based on the Petitioner's complaint, dated 24.08.2022 filed before the first Respondent.

3.The learned Additional Public Prosecutor appearing for the first and second Respondents submitted that the Writ Petition of this nature is not maintainable as per the Ruling of Division Bench of this Court in a batch of Criminal Original Petitions reported in **CDJ 2018 MHC 5100**, in the case of **G.Prabakaran vs The Superintendent of Police, Thanjavur District and another**, it was stated that the Writ Petition seeking direction to register the case with a direction to the police to investigate and file the final report cannot be ordered. Only Criminal Original Petition under Section 482 of Cr.P.C., can be filed for a direction to register the case. Also in the same judgment, it was stated that the Complainant, before approaching this Court, in cases, where the Police refused to register the case, has to exhaust the remedy available under Section 156(3) Cr.P.C., by filing a Petition under Section 156(3) Cr.P.C., before the learned Judicial Magistrate Court concerned. Only the learned Judicial Magistrate has to pass appropriate orders directing the Police concerned to register a case and investigate. Even after such direction, if the Police has not registered a case, then the Complainant can approach this Court under Section



W.P.(MD)No.23467 of 2022

482 of Cr.P.C. seeking a direction to register a case. For this, there shall be a reasonable time of 15 days from the date of order passed by the learned Judicial Magistrate concerned for the Investigation Officer or the Police Officer to register a case. Only after the expiry of 15 days from the date of order of learned Judicial Magistrate, the Complainant can approach this Court under Section 482 Cr.P.C. seeking direction.

4. In the ruling of the Hon'ble Supreme Court reported in ***CDJ 2020 SC 401*** in the case of ***M.Subramaniam and another vs. Janaki and another***, it was stated that the High Court could not have directed the registration of an FIR with a direction to the police to investigate and file the final report.

5. Instead of following the said guidelines, the Petitioner herein has approached this Court straightaway seeking Writ of Mandamus. Hence, this Writ Petition is not maintainable. Accordingly, this Writ Petition is dismissed. No costs.

31.10.2022

Index : Yes / No
Internet : Yes / No
ta



WEB COPY



W.P.(MD)No.23467 of 2022

SATHI KUMAR SUKUMARA KURUP, J.

ta

To:

- 1.The Superintendent of Police,
Thoothukudi District,
Thoothukudi.
- 2.The Inspector of Police,
Kovilpatti West Police Station,
Thoothukudi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

W.P.(MD)No.23467 of 2022

31.10.2022