



W.P.(MD)No.24084 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.11.2022

CORAM

THE HONOURABLE MR.JUSTICE **SATHI KUMAR SUKUMARA KURUP**

W.P.(MD)No.24084 of 2022

Alwin Jebery Raj

... Petitioner

Vs.

1. The Superintendent of Police
Nagercoil
Kanyakumari District

2. The Inspector of Police
Vellichandhai Police Station
Kanniyakumari District

3. Jebitha

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the Respondents 1 and 2 to conduct enquiry based on the Petitioner's complaint dated 08.10.2022.

For Petitioner :Mr.S.Saravanakumar

For R1 and R2 :Mr.B.Nambiselvan

Additional Public Prosecutor

ORDER

The Petitioner has filed the above Writ Petition to issue a Writ of Mandamus, directing the Respondents 1 and 2 to conduct enquiry based on the Petitioner's complaint dated 08.10.2022



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2. Heard Mr.S.Saravanakumar learned Counsel for the Petitioner and Mr.B.Nambiselvan, learned Additional Public Prosecutor appearing for the Respondents 1 and 2.

3.In 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 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 had not registered a case, then the Complainant can approach this Court under Section 482 of Cr.P.C. seeking a direction to register a case. For this, there shall be a reasonable time of 15 days or one month from the date of the order passed by the learned Judicial



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Magistrate concerned for the Investigation Officer or the Police Officer to register a case. Only after the expiry of 15 days or one month from the date of order of learned Judicial Magistrate, the Complainant can approach this Court under Section 482 Cr.P.C. seeking direction.

4.Instead of following the said guidelines, the Petitioner herein had approached this Court straightaway seeking Writ of Mandamus. Hence, this Writ Petition is not maintainable. Accordingly, this Writ Petition is dismissed with liberty to the Petitioner to approach the concerned Court as per the reported ruling of the Hon'ble Division Bench of this Court. No costs.

15.11.2022

Index : Yes / No

Internet : Yes/No

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To

1. The Superintendent of Police
Nagercoil
Kanyakumari District
2. The Inspector of Police
Vellichandhai Police Station
Kanniyakumari District
3. The Additional Public Prosecutor
Madurai Bench of Madras High Court, Madurai.



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SATHI KUMAR SUKUMARA KURUP,J.

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