



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 28.02.2022

CORAM :

THE HON'BLE MR JUSTICE G.ILANGO VAN

CrI.O.P.(MD)No.19312 of 2019

Karmegam

... Petitioner/Complainant

Vs.

1.Dhanapal
2.Pandiyaraj
3.Karthick
4.Suresh

... Respondents/Accused Nos.1 to 4

Prayer: Criminal Original Petition filed under section 482 of Criminal Procedure Code, to set aside the order of the learned Judicial Magistrate-II, Sivakasi, in Cr.M.P.No.6360 of 2019, dated 13.08.2019, and direct him to pass an order U/S 156(3) Cr.P.C for proper investigation.

For Petitioner : Mr.D.Dhana Chandra Prakash

For R1 & R2 : No Appearance

For R3 & R4 : Mr.A.Mohan

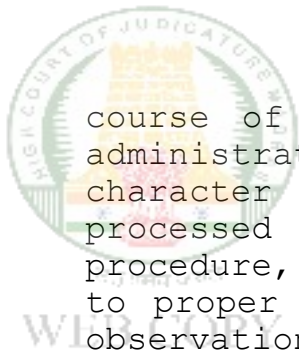
O R D E R

This petition has been filed to set aside the order of the learned Judicial Magistrate-II, Sivakasi, in Cr.M.P.No.6360 of 2019, dated 13.08.2019.

2.The petitioner has filed a private complaint before the Judicial Magistrate-II, Sivakasi, on 22.07.2019 seeking direction under Section 156 (3) Cr.P.C. The Trial Court has returned the complaint by observing the facts that there is no cognizable offence is made out in the complaint, the matter is civil in nature and the same has to be filed before the proper civil forum.

3.The learned counsel for the petitioner would submit that the petition ought not have been returned. It ought to have been processed properly, after going through the proper process only, the Trial Court can dismiss the same. Since there is no clear findings, the same must be quashed.

4.It is seen that the return order is not proper and the same is illegal also. Further, no findings can be recorded during the



course of administrative action. Returning petition is purely an administrative order. The Administrative order will not partake the character of judicial order. The complaint ought to have been processed properly and then only, after going through the proper procedure, findings ought to have been recorded. Without resorting to proper proceedings, the same has been returned by making some observations and findings. So, on the sole ground, this petition is liable to be allowed and the return order that has been passed by the learned Judicial Magistrate-II, Sivakasi, in Cr.M.P.No.6360 of 2019, dated 13.08.2019, is set aside and accordingly, the Criminal Original Petition is allowed.

5.The petitioner is directed to represent the complaint before the concerned Court within a period of 15 days from the date of receipt of a copy of this order. On receipt of the complaint, the Trial Court is directed to process the same and proceed in accordance with law. For that purpose, the Registry is directed to return the original complaint that has been filed in this case after proper acknowledgement and by substituting the copy of the complaint.

Sd/-

Assistant Registrar (Writs)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

dss

To
The Judicial Magistrate-II,
Sivakasi.

Copy to
1.The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.
2.The Section Officer,
E.R.Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.I.SUTHAKARAN, Advocate (SR-9043[F] dated 28/02/2022)

Cr1.O.P. (MD)No.19312 of 2019

28.02.2022