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Crl.O.P.No.24064 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.10.2023

CORAM :

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

Crl.O.P.No.24064 of 2023

R.Babu

... Petitioner

-VS-

The Inspector of Police,
C-4, Pennalurpet Police Station,
Pennalurpet, Thiruvallur District,
Pin Code 602 026.

...Respondent

PRAYER : Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to direct the respondent police to register the FIR against all the accused under Sections 302, 326, 354, 509, 442 r/w 34 of IPC in view of the direction order in CMP No.276 of 2022 dated 18.03.2022 in the file of the District cum Judicial Magistrate, Uthukottai.

For Petitioner : Mr.S.Kathiravan

For Respondent : Mr.S.Udaya Kumar
Government Advocate (Crl.Side)

ORDER

This petition is filed to direct the police to register the FIR against all the accused under Sections 302, 326, 354, 509, 442 r/w 34 of IPC in view of the direction order in CMP No.276 of 2022 dated 18.03.2022 on the file of the



learned District cum Judicial Magistrate, Uthukottai.

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2.The learned Government Advocate (Crl.Side), brought to the notice of this Court that the said order of the learned District Munsif- cum- Judicial Magistrate, Uthukottai, came up for consideration by the Division Bench of this Court in Contempt Petition No.1332 of 2022 and the Division Bench of this Court vide order dated 19.10.2022 has passed the following observation:-

'11.No court can direct the police to conduct the investigation in a particular manner and file a particular report. All that a Magistrate can direct the police under Section 156(3) Cr.P.C is, to conduct an investigation and nothing more. According to the Police, they have conducted investigation and have found that there is no commission of any cognizable offence and hence, they filed the closure report. It is always open to the petitioner to persuade the learned Magistrate to reject the closure report and seek for further investigation or for taking cognizance of the offence which appears to have been committed. We leave it open to the learned Magistrate to decide the issue on facts and on law. We find no violation of the order dated 18.03.2022 passed by the learned Magistrate to decide the issue on facts and on law. We find no violation of the order dated 18.03.2022 passed by the learned District Munsif-cum-Judicial Magistrate, Uthukottai in C.M.P. No.276 of 2022 for proceeding further in this contempt petition.'

3. On considering the submission made by the learned counsel for the petitioner and the submission made by learned Government Advocate, reading the Division Bench Judgment extracted above and the judgment of the Hon'ble Supreme Court in the case of ***Manoj Kumar Sharma and Ors V. State of Chhattisgarh and another in AIR 2016 SCC 3930***, this Court finds that the police had conducted enquiry and has filed a closure report on the direction of the learned Judicial Magistrate, since no commission of cognizable offence.



4. The learned counsel for the petitioner fairly concedes that against the closure report, he has filed a protest petition and same is pending. Whiles, this petition for directing fresh investigation is not sustainable. It is always open to the petitioner to work out his remedy in the protest petition which is claim to be pending before the District cum Judicial Magistrate, Uthukottai.

5. With the above observation, this Criminal Original Petition is disposed of.

30.10.2023

Index : Yes/No

Neutral Citation : Yes/No

rkp

To

1. The District cum Judicial Magistrate,
Uthukottai.
2. The Inspector of Police,
C-4, Pennalurpet Police Station,
Pennalurpet, Thiruvallur District,
Pin Code 602 026. .
3. The Public Prosecutor,
Madras High Court, Madras.



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Dr.G.JAYACHANDRAN, J.

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