



Crl.O.P.No.27583 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2023

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.27583 of 2023

V.Paramasivam

... Petitioner

Vs.

1. The Superintendent of Police,
The Office of Superintendent of Police,
Chengalpattu District.

2. The Inspector of Police,
D2, Taluk Police Station,
Chengalpattu District.

...Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to set aside the return docket order passed by the learned Magistrate -II, Chengalpattu under Section 156(3) of Cr.P.C. On 15.05.2023 and direct the 1st Respondent to take necessary action for the complaint given by the petitioner dated 25.01.2023.

For Petitioner : M/s. P.Uma

For Respondents : Mr. Leonard Arul Joseph Selvam
Government Advocate (Crl. Side)



Crl.O.P.No.27583 of 2023

ORDER

Alleging that, complaint given to the respondent police and the Deputy

Superintendent of Police was not acted upon, petitioner has approached the learned Judicial Magistrate No.II, Chengalpattu by way of an application under Section 156(3) of Cr.P.C to take up the complaint and direct the Police to register the FIR and investigate. However, the learned Judicial Magistrate has returned the complaint stating that, prayer sought by the petitioner does not come under the purview of Section 156(3) of Cr.P.C. Since, it is filed in the public interest. Aggrieved by the said docket order, present petition is filed.

2. The learned Government Advocate (Crl. Side) submitted that, it is incorrect to say that the complaint given by the petitioner was not acted upon. Infact, complaint sent to the Deputy Superintendent of Police was forwarded to concerned Police for enquiry. After enquiry, it was found that, petitioner is one of the suspected accused in Crime No.08 of 2023 registered on the complaint given by one Badmanaban regarding piece of property alleged to have been purchased by Badmanaban but protested by the petitioner and others, but it is a Government Land being unauthorizedly



occupied. It is also from the enquiry had come to the knowledge of the Inspector of Police, Chengalpattu Town Police Station that, this petitioner has an habit of giving complaint against others for alleged encroachment of the Government Land and created issues and also supporting the encroachers by giving complaint before the higher officials to extract money. With this observation, the complaint given by the petitioner was closed.

3. Therefore, the learned Government Advocate (Crl. Side) submitted that, suppressing the said fact, petitioner has filed a complaint under Section 156(3) of Cr.P.C. The learned Judicial Magistrate after considering the content of the complaint had rightly returned it.

4. This Court on hearing the learned Counsel appearing for the parties and on perusal of the records finds that, the complaint alleged to have been initiated by the petitioner under Section 156(3) of Cr.P.C before the learned Judicial Magistrate II, Chengalpattu is consequence and counter blast to the case registered against this petitioner and pending enquiry. The locus of the petitioner herein to agitate against the alleged encroachment of Government land and the allegations against the Badmanaban and other Government



Officials on the face of it appears to be a complaint not by the person aggrieved personally, but by a person carrying on the public cause. In the complaint, he also made allegations against the Badmanaban as a person involved in floating counterfeit currency and the said Badmanaban had encroached Government land in connivance with Revenue Officials and constructed Multi Store yard Buildings. The Judicial Magistrate has rightly observed that, this sort of complaints cannot fall within the purview under Section 156(3) of Cr.P.C for the Judicial Magistrate to take note and direct the Police to investigate.

5. The reading of Section 156(3) of Cr.P.C., would show that, any Magistrate is empowered under Section 190 may order investigation as mentioned in Sub Section (1) and (2) of Section 156 of Cr.P.C. The primary requirement to access this power is that, there must be some material for cognizable offence and further it is now settled and reiterated in several judgements made by this Court and the Hon'ble Supreme Court that any person aggrieved cannot straight away knock the door of the Magistrate under Section 156(3) of Cr.P.C to register the complaint, but should first exhaust the process of lodging the complaint before the Jurisdiction Police



Crl.O.P.No.27583 of 2023

and if there is any failure, same must be brought to the notice of the Higher Officials namely Superintendent of Police and failing thereafter to resort remedy under Section 156(3) of Cr.P.C.,

6. In this case, this Court finds that, petitioner has already given complaint to the Jurisdiction Police as well as the Superintendent of Police and the complaint has been enquired and closed. As stated earlier, under such circumstances, this Court finds no procedural error or reason to interfere with the docket order of the learned Judicial Magistrate. It is for the petitioner herein to resort to the procedure contemplated under the law on receipt of the notice of action dropped dated 21.04.2023.

7. With the above observations and directions, this Criminal Original Petition is disposed of.

12.12.2023

Index : Yes/No
Neutral Citation : Yes/No
Sma



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Crl.O.P.No.27583 of 2023

Dr.G.JAYACHANDRAN,J.

Sma

To:

1. The Superintendent of Police,
The Office of Superintendent of Police,
Chengalpattu District.
2. The Inspector of Police,
D2, Taluk Police Station,
Chengalpattu District.
3. Judicial Magistrate II, Chengalpattu.
- 4 . The Public Prosecutor,
Madras High Court.

Crl.O.P.No.27583 of 2023

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