



Crl.O.P.(MD) No.18630 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 11.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.(MD) No.18630 of 2018

A.Sasikala

...Petitioner/Defacto Complainant

Vs.

1.Sethu @ Seralathan

2.Raja

**Anna University of Technology, Madurai,
In charge Ramanathapuram Campus,
Ramanathapuram,
Now working as Assistant Professor,
Mechanical Engineering Department,
University College of Engineering,
Dindigul.**

3.Sugumar

**Inspector of Police,
Velayuthampalaiyam Police Station,
Now Inspector of Police,
Mohanur Police Station,
Namakkal District.**



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4. The Inspector of Police,
Velayuthampalayam Police Station,
Karur District.
(R4 is suo motu impleaded as per the order
dated 13.09.2022)

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to set aside the order in C.M.P.No.4110 of 2018 dated 25.07.2018 on the file of the learned Judicial Magistrate No.II, Karur consequently directing the learned Judicial Magistrate No.II, Karur to take additional charges against the respondents in C.C.No.110/2013 in Crime No.81/2012 on the file of the 3rd respondent.

For Petitioners : Mr.P.Dhanasekaran

For Respondents : Mr.M.P.Senthil for R1
Mr.M.Natarajan for R2
Mr.P.Murugesan for R3

Mr.R.Meenakshi Sundaram
Addl. Public Prosecutor for R4

ORDER

The above petition challenges the order passed by the learned Judicial Magistrate No.II, Karur dismissing the petition filed by the petitioner under Section 156(3) of Cr.P.C.



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2(a). The brief facts leading to the filing of the above petition are that the petitioner is the defacto complainant in Crime No.81 of 2012 on the file of the third respondent police. The petitioner had alleged that she and her father were attacked by five persons on 28.02.2012. The third respondent, while filing the final report on 16.08.2013, deleted the name of the fourth accused, Sethu @ Seralathan, who is the first respondent herein. The said deletion was pursuant to the attendance certificate issued by the second respondent, who was the Dean, Anna University of Technology, Madurai, stating that on 27.02.2012, the fourth respondent attended the college.

(b) Thereafter, the petitioner filed CMP No.5871 of 2015 under Section 173(8) for further investigation, since the name of the said Sethu @ Seralathan was wrongly deleted. The said petition was allowed by the order dated 10.04.2017. Thereafter, the third respondent filed further report including the name of the said Sethu @ Seralathan and adding few more offences in the final report.



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(c) Alleging that the second respondent had given a false attendance certificate, the petitioner filed CMP No.4110 of 2018 under Section 156(3) Cr.P.C by the Judicial Magistrate No.II, Karur against the second respondent herein. The learned Judicial Magistrate found that since another case is pending on his file relating to the incident, a separate complaint against the second respondent herein would not be maintainable. The learned Judicial Magistrate also found that there is no *prima facie* case made out as against the second respondent.

3. The learned counsel for the petitioner submitted that the second respondent has given false attendance certificate which led the third respondent to delete the name of the said Sethu @ Seralathan initially in that final report. The second respondent therefore committed the offence of misleading the Investigation Officer and hence, action against him has to be taken on file.

4. The learned counsel for the second respondent submitted that the second respondent had given a correct certificate and if in the trial, it



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is found that the certificate is not correct, it is open to the petitioner to take action in C.C.No.110 of 2013 by filing appropriate petition.

5. Heard the learned counsels appearing on either side and perused the materials available on records.

6. We find that the complaint of the petitioner is that the second respondent in order to help the accused, had issued a false certificate. The allegation made by the petitioner will have a bearing in the trial in C.C.No.110 of 2013. The learned Judicial Magistrate has found on facts that there is no *prima facie* evidence to establish that the second respondent had given false certificate. The learned Judicial Magistrate has also rightly found that since the case is pending in C.C.No.110 of 2013, it would not be in the interest of justice to entertain the complaint filed by the petitioner under Section 156(3) of Cr.P.C. The impugned order passed by the learned Judicial Magistrate is in accordance with law and does not suffer from any infirmity since any order passed in the petition filed under Section 156(3) of Cr.P.C would affect the trial in



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C.C.No.110 of 2013. In such circumstances, the order passed by the learned Judicial Magistrate does not call for any interference. Hence, this petition is liable to be dismissed.

7.It is needless to say that if the petitioner is able to produce any further evidence, he may approach the learned Magistrate in C.C.No.110 of 2013 for appropriate orders.

8.Accordingly, this Criminal Original Petition is dismissed.

11.01.2023

skn

NCC:Yes/No

Internet:Yes/No

Index:Yes/No

To

1.The Judicial Magistrate No.II, Karur.

2.The Inspector of Police,
Velayuthampalayam Police Station,
Karur District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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SUNDER MOHAN, J.

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