



Crl.OP.No.6737 of 2024

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.OP.No.6737 of 2024
and Crl MP No.4947 and 4946 of 2024

Sabaritha

... Petitioner

Vs.

1.State Represented through its
Sub-Inspector of Police,
MGR Nagar police Station,
T.Nagar, Chennai.

2. Vijayakumar
Respondents

...

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for records of the CC No.2683 of 2019 pending on the file of the XVIII Metropolitan magistrate, Saidapet, Chennai – 15.

For Petitioner	: Mr.P.G.Thiyagu
For Respondent	: Mr.A.Gopinath
	Government Advocate for R1



Crl.OP.No.6737 of 2024

WEB COPY

ORDER

This Criminal Original petition has been filed challenging the proceedings in CC No.2683 of 2019 pending on the file of the XVIII Metropolitan magistrate, Saidapet, Chennai – 15.

2. When the matter came up for hearing on 20.03.2024, this Court passed the following order :-

It is seen from the cognizance order taken by the Court below dated 26.07.2019 that a rubber stamp cognizance has been taken. This Court has been watching this trend of taking rubber stamp cognizance in many cases. In view of the same, this Court is forced to set aside the cognizance order and send it back to the trial Court for passing fresh cognizance order by applying the mind. This trend has to be stopped. This is in view of the fact that such rubber stamp cognizance has been deprecated by the Apex Court and this judgment was also followed by this Court in Shanmugam and others Vs. Inspector of Police, Ariyalur Police Station, Ariyalur and others reported in (2019) 3 MLJ (Crl.) 339. In spite of the same, the practise of taking rubber stamp cognizance continues in the subordinate



Crl.OP.No.6737 of 2024

WEB COPY Courts.

2.It is made clear that going forward, if cognizance is taken through a rubber stamp cognizance order, this Court will be forced to call for explanation. This is in view of the fact that such rubber stamp cognizance order is in violation of the order passed by the Apex Court and followed by this Court.

3.This order shall be circulated to all the Principal District Judges across the State of Tamil Nadu. Instruction shall be given to the entire District Judiciary that cognizance should be taken after proper application of mind and the practise of rubber stamp cognizance must be stopped forthwith.

4.Mr.A.Gopinath, learned Government Advocate (Crl. Side) takes notice on behalf of the first respondent. Notice to the second respondent returnable by 28.03.2024. Private notice is also permitted. 5.Post this case under the same caption on 28.03.2024

3. Purusant to the above order, private notice was also



Crl.OP.No.6737 of 2024

WEB COURT

taken to the 2nd respondent and affidavit of service has also been filed. It is seen that the notice that was sent to the 2nd respondent was returned with an endorsement “no such person”.

4. This Court is inclined to proceed further to dispose of this Criminal Original petition since the very cognizance order passed by the Court below is illegal. In view of the same, there is no need to go into the merits of the case.

5. In the light of the above discussion, the cognizance order passed by the Court below is hereby set-aside. The matter is remanded back to the file of the learned XXIII Metropolitan Magistrate, Saidapet. The learned Magistrate shall apply his mind on the materials available and shall pass the cognizance order by assigning reasons and thereafter, proceed further in accordance with law. The Cognizance order shall be passed within a period of four weeks from the date of receipt of a copy of this order.



Crl.OP.No.6737 of 2024

WEB COPY

6. This Criminal Original petition is disposed of in the above terms. Consequently, the connected miscellaneous petitions are closed.

28.03.2024

Index:Yes/No

Internet:Yes/No

Speaking order : Yes/No

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Crl.OP.No.6737 of 2024

N.ANAND VENKATESH, J.,

rka

To

1. XVIII Metropolitan magistrate, Saidapet, Chennai – 15.
2. State Represented through its
Sub-Inspector of Police,
MGR Nagar police Station,
T.Nagar, Chennai.
3. The Public Prosecutor,
High Court, Madras.

Crl.OP.No.6737 of 2024

28.03.2024

Page No.6/6