



Crl.O.P.(MD).No.15846 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved On	:	08.11.2023
Pronounced On	:	22.02.2024

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

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... Petitioner/Petitioner

Vs.

1. The State of Tamil Nadu rep. by its
Inspector of Police,
Nazareth Police Station.
2. Andrews Victor Gnanaoli,
Pastorate Committee Office,
St.John's Church,
Nazareth, Eral Taluk,
Tuticorin District.
3. Andrews Rakland,
YMCA Square,
Nazareth, Eral Taluk,
Tuticorin District.
4. Rathinakumar
5. Dinesh
6. Praveen
7. Jesudoss



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8. Pondurai

9. Kebaselvan

10. Rajesh Solomon

... Respondents/Respondents

PRAYER: Criminal Original Petition has been filed under Section 482 of Cr.P.C., to call for the records relating to the order passed by the Learned Judicial Magistrate, Sathankulam in Cr.M.P.No.2150 of 2020 dated 18.08.2020 and set aside the same and allow the said petition as prayed for.

For Petitioner : Mr.N.Dilip Kumar

For Respondents : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor for R1

: Mr.J.Kinsgly Solomon,
for R2 to R5 & R8

: Mr.P.Pethu Rajesh,
for R6, R7, R9 & R10

ORDER

This criminal original petition has been filed to set aside the order passed by the Learned Judicial Magistrate, Sathankulam in Cr.M.P.No.2150 of 2020 dated 18.08.2020.



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2.The petitioner is the Treasurer of St.John's Church Pastorate, Nazareth. He and his Pastorate President has been taking care of all the revenue affairs of the Pastorate. All the documents and the articles of the Church was under the joined control and custody of the petitioner and the Pastorate President. On 07.07.2020, the respondents 2 to 10 are said to have illegally trespassed into the Church premises and broke open the locker and illegally taken away number of the documents and also deposit receipts and other valuable documents of the Church. Therefore, the petitioner sent a complaint to the local Police Station on the same day. The Police officer has not taken any steps and hence, he sent a complaint to the Superintendent of Police through online on 09.07.2020. The Superintendent of Police has also not taken action. Hence, he filed a petition in Cr.M.P.No.2150 of 2020 under Section 156(3) before the learned Judicial Magistrate, Sathankulam. The learned Judicial Magistrate without ordering the enquiry under section 156(3) of Cr.P.C. or following any other procedure contemplated under Section 156(3) Cr.P.C., dismissed the petition on the ground that the complaint was sent through the CCTNS online, which cannot be treated as a complaint and on the ground that he has not produced any details of missing documents and value of the money. Further, he has not produced any record to show his status in the Church. Challenging the same, the petitioner filed this



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3.The learned counsel appearing for the petitioner submitted that the impugned order dated 18.08.2020 passed by the learned Judicial Magistrate is not in accordance with law under Section 156(3) of Cr.P.C. The learned Judicial Magistrate has no jurisdiction to look into the veracity of the allegations mentioned in the complaint. The learned Judicial Magistrate failed to see that the complaint submitted by the petitioner to the Superintendent of Police, has been produced as a document along with the petition filed under Section 156(3) of Cr.P.C. There is a clear mention of the missing articles. The learned Judicial Magistrate without considering the same, dismissed the petition contrary to the provisions under Section 156(3) of Cr.P.C., He also submitted that the learned Judicial Magistrate has not properly considered this scope. In this aspect, it is relevant to note the precedent of Honourable Supreme Court in the case of ***Srinivas Gundluri and others Vs. Sepco Electric Power Construction Corporation and others*** reported in ***2010 8 SCC 206***.

4.The learned counsel appearing for the private respondents 2 to 10 submitted that the learned Judicial Magistrate correctly dismissed the petition



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and the respondents 2 to 10 also the former office bearers of the said Church Pastorate. Hence, the complaint is motivation one. Further, the allegations made in the petition is not correct. Therefore, he seeks for dismissal of this petition.

5.The learned Additional Public Prosecutor also stated that even though the petitioner made a complaint the said complaint does not make out a cognizable offence. Hence, the learned Judicial Magistrate correctly dismissed the petition.

6.This Court considered the submission made on either side and perused the record and also precedents relied upon by them.

7.The petitioner is the Treasurer of St.John's Church Pastorate, Nazareth. He and his Pastorate President have been taken care of all the revenue affairs of the Pastorate and other properties of the Church. The documents were kept in the locker of the church. On 07.07.2020, the respondents 2 to 10 are said to have illegally trespassed into the Church and broke open the locker and looted the entire documents and other valuables. The same was informed by the watchman of the Church to the petitioner, based on which, complaint was preferred before



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the first respondent Police Station. The first respondent Police, even after receipt of the same, did not take any action. Hence, online complaint was submitted to the Superintendent of Police, Thoothukudi District. The Superintendent of Police has also not taken any action on the complaint. Therefore, the petitioner filed the petition in Cr.M.P.No.2150 of 2020 under Section 156(3) Cr.P.C., before the Learned Judicial Magistrate, Sathankulam. From the complaint, it is clear that the watch man of the Church is the eye witness to the occurrence. The said allegations prima facie constitute the offence triable under the IPC. The respondent police did not take any action and hence, the petitioner correctly sent a complaint to the Jurisdictional Superintendent of Police in compliance with 154 of Cr.P.C. ie., as per the Division Bench of this Court in the case of ***G.Prabakaran Vs. Superintendent of Police***, reported in ***2018 (5) CTC 623***, he complied all the conditions and hence, he preferred the complaint before the Judicial Magistrate Court. The learned Judicial Magistrate without looking into the seriousness of the allegation simply dismissed the petition on the ground that the petitioner has not stated the particulars of the valuables. The learned Judicial Magistrate failed to see that the complaint of the petitioner sent to the local jurisdictional Police Station as well as the Superintendent of Police. There is a clear mention of the particulars of the missing articles. The said documents were



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annexed with the petition under Section 156(3) of Cr.P.C.

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8.In the said circumstances, this court finds that the learned Judicial Magistrate erroneously dismissed the petition and hence, this court inclines to issue direction to the first respondent Police to conduct the enquiry on the basis of the complaint given by the petitioner, dated 07.07.2020, as per the law laid down by the Hon'ble Supreme Court in the case of ***Lalitha Kumari Vs. Govt. of U.P*** reported in ***2012(4) SCC 1***. After enquiry, if any cognizable offence is made out, it is open to the jurisdictional police to register the case and proceed the investigation in accordance with law.

9.With the above direction, this Criminal Original petition is disposed of.

22.02.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No

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To

1. The Judicial Magistrate,
Sathankulam.
2. The Inspector of Police,
Nazareth Police Station, Thoothukudi.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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K.K.RAMAKRISHNAN, J.

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