



CRL.OP(MD). No.11583 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.11.2024

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

CRL.OP(MD). No.11583 of 2023

and

CRL.MP(MD). No. 9120 of 2023

M.Alaguraj

... Petitioner

Vs.

1. M.Subramanian

2.The Inspector of Police,
Thalamuthu Nagar P.S.,
Thoothukudi.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order dated 23.05.2023 in Crl.M.P.No.8763 of 2023 in Crl.M.P.No.4758 of 2022 on the file of the Judicial Magistrate No.II, Thoothukudi insofar as rejection of document No.1.

For Petitioner : Mr.C.Susi Kumar

For R-2 : Mr.B.Thanga Aravindh,
Government Advocate
(Crl. Side)



CRL.OP(MD). No.11583 of 2023

WEB COPY

ORDER

This petition has been filed challenging the order passed on 25.03.2023 in CrI.M.P.No.8763 of 2023 in CrI.M.P.No.4758 of 2022 by the learned Judicial Magistrate No.II, Thoothukudi refusing to take on file document no.1 which is a community certificate and permitting the petitioner to file the other documents.

2. Heard the learned counsel on either side and perused the materials placed on record.

3. The petitioner in this case had filed the application under Section 156(iii) of CrPc which was taken on file in CrI.M.P.No.4758 of 2022. The Court below decided to deal with this application as a private complaint and therefore, adopted the procedure for a private complaint. In that process, the petitioner filed CrI.M.P.No.8673 of 2023 for filing five documents. It is not known under what provision such an application was filed and it is not known as to how the court below had understood this application. The Court below has passed an order stating out of the five documents, only four documents can be taken on file.



CRL.OP(MD). No.11583 of 2023

4. The application filed by the petitioner and the process that was adopted by the Court is unknown to the Code of Criminal Procedure.

There is no question of marking a document at the time of taking cognizance of a private complaint. At the time of taking cognizance of a private complaint, the Court must only record the sworn statement of the complainant and the witnesses present and must also go through the materials placed and take cognizance. Marking of documents will arise only in the course of trial. This fundamental issue has not been understood either by the petitioner or by the Court below. Therefore, a confusing order has been passed by the Court below without application of mind.

5. When the matter was taken up for hearing, the learned Government Advocate brought to the notice of this Court that the complaint has now been numbered as C.C.No.620 of 2023 and it is posted for hearing on 04.12.2024. In the instant case, the alleged offence committed is under Sections 341, 294(b), 323 and 506(ii) of IPC. Section 323 is punishable with imprisonment of 1 year. Section 506(ii) is punishable with maximum imprisonment of 7 years. In view of the same,



CRL.OP(MD). No.11583 of 2023

the Court has to adopt the procedure of a warrant case otherwise than on a police report. In such an event, the Court below must adopt the procedure adumbrated from Sections 244 to 247 of CrPC.

6. In view of the above, the Court below shall keep in mind the observations made in this order and proceed further to mark the documents in accordance with law and not to pass orders which are not contemplated under the Code of Criminal Procedure. The proceedings shall be completed as expeditiously as possible.

7. This criminal original petition is disposed of in the above terms. Consequently, the connected miscellaneous petition is closed.

21.11.2024

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

pal



CRL.OP(MD). No.11583 of 2023

To

WEB COPY

1. The Judicial Magistrate No.II,
Thoothukudi.
2. The Inspector of Police,
Thalamuthu Nagar P.S.,
Thoothukudi.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



CRL.OP(MD). No.11583 of 2023

N.ANAND VENKATESH,J.

pal

Order made in
CRL.OP(MD). No. 11583 of 2023

21.11.2024