



Crl.O.P.(MD)No.11351 of 2024

WEB COPY

DATED : 24.07.2024

CORAM :

THE HON'BLE MR.JUSTICE B.PUGALENDHI

Crl.OP(MD)No.11351 of 2024

S.Sekar

... Petitioner

Vs

1.The Inspector of Police,
Central Crime Branch, Madurai City.

2.Kanakasabai
3.Chidambaram
4.V.M.Rajeswaran
5.A.Muthukumar
6.K.Murugesan
7.R. Sivakumar
8.A.K.D.Kudalingam
9.Sureshkumar

...Respondents

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the learned Judicial Magistrate No.1, Madurai to dispose the protest petition in Crl.M.P.No. 3127/2023 in Crl.M.P.No. 1663/2022 on merits, within stipulated time fixed by this Court.

For Petitioner
For R1

: Mr.Maharajan V,
: Mr.M.Sakthi Kumar
Government Advocate (Crl.side)



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ORDER

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The petitioner has lodged a complaint before the Judicial Magistrate Court No.1, Madurai, seeking a direction under Section 156(3) of Cr.P.C in Crl.MP No.1663 of 2022 and the same was referred by the learned Magistrate, by order dated 04.07.2022, directing the respondent police to conduct a preliminary enquiry and take appropriate action. The respondent police has filed a report that no offence has been made out as against the complaint lodged by the petitioner. The petitioner claims that he has filed a protest petition in Crl.MP No.3127 of 2023 before the Judicial Magistrate Court No.1, Madurai as against the report filed by the respondent police in Crl.MP No.1663 of 2022. The grievance of the petitioner is that the learned Magistrate is keeping this petition in Crl.MP No.3127 of 2023 pending for the past one year. Therefore, the petitioner has approached this Court, seeking a direction to the learned Judicial Magistrate No.1, Madurai to dispose of the protest petition in Crl.M.P.No. 3127/2023 in Crl.M.P.No. 1663/2022 within a stipulated time.

2.Mr.M.Sakthi Kumar, learned Government Advocate



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(Crl.side) takes notice for the first respondent and submits that no case has been registered as against the petitioner's complaint and therefore, this petitioner is not having any right of filing the protest petition. The available remedy for the petitioner is to file a private complaint. Therefore, the direction sought for in the name of protest petition cannot be maintainable.

3.This Court considered the rival submissions made.

4.As rightly pointed out by the learned Government Advocate (Crl.side), the complaint of the petitioner, which was forwarded in Crl.M.P.No. 1663/2022 was not registered with any crime number and it was simply returned that no offence has been made out. If any First Information Report is registered or final report is filed either by closing the case as mistake of fact or deleting any of the offence or deleting any of the accused, this petitioner is having a right of protest as directed by the Honourable Supreme Court in ***Bhagwat Singh vs. Commissioner of Police and another***, reported in (1985) 2 SCC 537.



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5.In this case, the complaint referred by the learned Magistrate has not been registered with a criminal case and therefore, this petitioner is not having any right of filing a protest petition in Crl.M.P.No.3127/2023. Therefore, the petitioner is directed to work out his remedy by filing a private complaint before the concerned Magistrate Court. In the event, if the petitioner has made out a case, constituting the offence under BNS, the learned Magistrate shall take cognizance of the offence, for which materials has been placed before the Court.

6.With the above directions, this Criminal Original Petition is disposed of.

24.07.2024

NCC : Yes/No

Index : Yes/No

Internet:Yes

vrn



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To

WEB COPY

- 1.The Inspector of Police,
Central Crime Branch, Madurai City.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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B.PUGALENDHI,J

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Order made in
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