



W.P.(MD)No.19813 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.02.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.19813 of 2022

D.Pandiaraj

... Petitioner

Vs.

1.The Inspector of Police,
District Crime Branch,
Virudhunagar.

2.Vellairaja

... Respondents

PRAYER:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus, to direct the first respondent herein to register a case based on the order of the learned Judicial Magistrate No.II, (FAC), Virudhunagar in C.R.M.P.No.5754 of 2022 dated 04.07.2022 and take necessary action within a stipulated time as may be fixed by this Court.

For Petitioner : Mr.M.Jegadeesh Pandian

For R1 : Mr.B.Nambiselvan
Additional Public Prosecutor

For R2 : Mr.Vellairaja



W.P.(MD)No.19813 of 2022

ORDER

WEB COPY This petition has been filed to direct the first respondent herein to register a case based on the order passed by the learned Judicial Magistrate No.II, (FAC), Virudhunagar in C.R.M.P.No.5754 of 2022 dated 04.07.2022.

2. The case of the petitioner is that the petitioner filed a petition in C.R.M.P.No.5754 of 2022 before the learned Judicial Magistrate No.II, (FAC), Virudhunagar under Section 156(3) of Cr.P.C., The trial Court, by its order dated 04.07.2022, forwarded the complaint to the first respondent and directed the first respondent to conduct enquiry and file final report within a month. However, the above said order has not been complied with by the first respondent. Hence, the present petition has been filed.

3.The learned Additional Public Prosecutor appearing for the State would submit that for the non-compliance of the order dated 04.07.2022 passed by the learned Judicial Magistrate No.II, (FAC), Virudhunagar, the petitioner filed a contempt petition before the learned Judicial Magistrate, Virudhunagar, and the same was closed. Against which, the present petition has been filed for the implementation of the order dated 04.07.2022.



W.P.(MD)No.19813 of 2022

4.The learned counsel appearing for the second respondent would submit that already for the non-compliance of the order passed in CrI.MP.No.5754 of 2022 dated 04.07.2022, the petitioner filed a contempt petition before the learned Judicial Magistrate, Virudhunagar and the same was closed. Thereafter, the second respondent filed a Criminal Revision Case before this Court in CrI.R.C(MD)No.821 of 2022 seeking to quash the order passed in CrI.MP.No. 5754 of 2022 dated 04.07.2022 and this Court, by its order dated 10.02.2023, issued a direction to the Deputy Superintendent of Police, Thirumangalam to complete the investigation as expeditiously as possible. Challenging the same, the second respondent filed a Special Leave Petition before the Hon'ble Apex Court in SLP.(Criminal) Diary No.32712 of 2023 and the same was dismissed on 25.09.2023. The relief sought for by the petitioner in this petition, is already worked out by him in CrI.MP.No.5754 of 2022. However, for the very same relief, he approached this Court by way of filing this petition, is not maintainable. Accordingly, he prayed for dismissal of this petition.

5.Heard the learned counsel appearing for the petitioner, learned counsel appearing for the second respondent and the learned Additional Public Prosecutor appearing for the State.



W.P.(MD)No.19813 of 2022

6. The facts in the present case are not in dispute. The petitioner filed a private complaint under Section 156(3) of Cr.P.C., before the learned Judicial Magistrate No.2, Virudhunagar in CrI.MP.No.5754 of 2022. The trial Court, by its order dated 04.07.2022, issued a direction to the first respondent to conduct investigation and file final report within a month. For the non-compliance of the above said order, the petitioner filed contempt petition before the learned Judicial Magistrate, Virudhunagar and the same was closed. Thereafter, the second respondent filed CrI.R.C(MD)No.821 of 2022 before this Court and this Court issued a direction to the Deputy Superintendent of Police, Thirumangalam to complete the investigation. Against which, the second respondent filed Special Leave Petition before the Hon'ble Apex Court in SLP.(Criminal) Diary No.32712 of 2023 and the same was dismissed on 25.09.2023. Already, this Court while entertaining CrI.R.C(MD)No.821 of 2022, issued a direction to the Superintendent of Police, Thirumangalam. Already, when such a direction was issued to the Deputy Superintendent of Police, Thirumangalam, and the relief sought for by the petitioner in this petition, is already worked out by him in CrI.MP.No.5754 of 2022. Hence, the present petition filed by the petitioner for the very same relief cannot be adjudicated by this Court.



W.P.(MD)No.19813 of 2022

7. Apart from that, the petitioner has also filed CrI.RC(MD)No.707 of 2023 before this Court seeking quashment of the order passed in S.T.C.No.442 of 2023 on the file of the learned Judicial Magistrate No.II, Virudhunagar, dated 17.03.2023 and the same is pending. The above said S.T.C.No.442 of 2023 was filed by the petitioner for taking action against the Investigating Officer for non-compliance of the order passed in CrI.MP.No.5754 of 2022 and the same was transferred to the Judicial Magistrate, Madurai, on the ground of jurisdiction.

8. This Court is of the considered view that when CrI.RC(MD)No.707 of 2023 is pending before this Court, for the very same relief, the present petition has been filed by the petitioner, is not maintainable one.

9. Accordingly, this Writ Petition is dismissed. No costs. However, liberty is granted to the petitioner to work out his remedy in the pending Criminal Revision Case in CrI.R.C(MD)No.821 of 2022 in the manner known to law.

27.02.2024

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



W.P.(MD)No.19813 of 2022

M.DHANDAPANI, J.

dss

To

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

W.P.(MD)No.19813 of 2022

27.02.2024