



CrI.O.P.(MD).No.14 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **18.11.2024**

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

CrI.O.P.(MD).No.14 of 2023

K.Mohamed Siddiq

... Petitioner

Vs.

The Deputy Superintendent of Police,

Crime Branch CID (CBCID),

Madurai Range.

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order dated 24.02.2022 passed in CrI.R.P.No.7 of 2017 on the file of Principal Sessions Judge, Theni and confirm the order dated 19.12.2016 passed in CrI.M.P.No. 8678 of 2015 on the file of the Judicial Magistrate, Uthamapalayam.

For Petitioner : Mr.K.K.Samy

For Respondents : Mr. S.Ravi
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed challenging the proceedings of the Principal Sessions Judge, Theni, in CrI.R.P.No.7 of



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2017, dated 24.02.2022, setting aside the order passed by the Judicial Magistrate, Uthamapalayam, in CrI.M.P.No.8678 of 2015, dated 19.12.2016.

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

3. The short issue that arises for consideration in the present case is as to whether the Judicial Magistrate can issue directions under Section 156(3) of Cr.P.C to the CBCID to register an F.I.R and to proceed further with the investigation.

4.The learned Judicial Magistrate, Uthamapalayam, had given such a direction in CrI.M.P.No.8678 of 2015, dated 19.12.2016. The same has been interfered by the Principal Sessions Judge, Theni, on the ground that no such directions can be given under Section 156(3) of Cr.P.C.

5. The case in hand, is squarely covered by the earlier judgment of this Court in *S.Madhiyazhagan V. State, made in CrI.O.P.No.9542 of 2015 etc., dated 20.08.2024*. This Court in no uncertain terms held that



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the Magistrate cannot issue any direction under Section 156(3) Cr.P.C to the CBCID, to investigate a case.

6. In the light of the above discussion, this Court does not find any ground to interfere with the orders passed by the learned Principal Sessions Judge, Theni. The case involved action to be taken against police officials. If that is the case, the petitioner ought to have first got the F.I.R registered and thereafter sought for transfer of investigation to CBCID by approaching this Court. The Magistrate certainly does not have the power to issue direction to CBCID, to investigate the case in exercising its jurisdiction under Section 156 (3) Cr.P.C.

7. This Criminal Original Petition is dismissed. It goes without saying that the petitioner always work out his remedy by adopting proper procedure and thereafter seek for transfer of investigation.

18.11.2024

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

LS



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N.ANAND VENKATESH,J.

LS

To

1. The Judicial Magistrate,
Uthamapalayam
2. The Principal Sessions Judge,
Theni
3. The Deputy Superintendent of Police,
Crime Branch CID (CBCID),
Madurai Range.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Order made in
Crl.O.P.(MD).No.14 of 2023

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