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Crl.RC.No.1570 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2026

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.RC.No.1570 of 2022

M.Mahesh Kumar

... Petitioner

Vs.

1.THE SUPERINTENDENT OF POLICE (NORTH),
O/o. Mettupalayam Police Station Complex, Puducherry - 605 009.

2.THE SUB INSPECTOR OF POLICE - CUM
Station House Officer, Reddiarpalayam Police Station,
Reddiarpalayam, Puducherry - 605 010.

3.S.RAMESH

... Respondent

Prayer: Criminal Revision Case filed under Sections 397 r/w 401 Cr.P.C. to set aside the order dated 06.09.2022 made in Crl.MP.No.7280 of 2022 on the file of the Judicial Magistrate-III, Puducherry and to direct the respondent to register the FIR based on the petitioner's complaint dated 12.03.2022 in accordance with law and allow the criminal revision petition.

For Petitioner : Ms.R.Kalaiyarasi

For Respondents

For R1 & 2 : Mr.A.Alexander,
Government Advocate(crl.side)

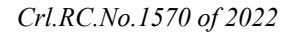


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ORDER

This criminal revision case has been filed against the order of the learned Judicial Magistrate No.III, Puducherry in Crl.MP.No.7280 of 2022 dated 06.09.2022 thereby dismissing the private complaint filed by the petitioner.

2. The petitioner filed a private complaint seeking direction under Section 156(3) of Cr.P.C. to register a case against the third respondent on the allegation that the petitioner is a member of the Tholkappiar Lancha Ozhippu Iyakkam. While being so, on 03.09.2016, FIR was registered against the General Secretary of the said Organization by the third respondent herein for a non cognizable offence. The petitioner further states that the third respondent cannot investigate the case without permission of the Magistrate concerned as contemplated under Section 155(2) of Cr.P.C. Even then, the third respondent registered FIR for non cognizable offence. Subsequently, all the accused persons in crime No.107 of 2016 were discharged by the trial court. Therefore, the third respondent had committed offence under Sections 166, 166-A(b), 167, 219 & 220 of IPC. However, the learned Magistrate dismissed the private complaint for want of sanction.



5. On perusal of the records and also on the submissions made by the learned counsel appearing on either side, it is revealed that the allegation made against the third respondent is that he wrongly filed FIR. The trial court found that all the allegations made against the third respondent is pertaining to performing his official duty, therefore prior sanction is necessary to prosecute a public servant and if sanction is not



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obtained, no court shall take cognizance against the erred official.

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6. The sanction of the Government, to prosecute a police officer, for any act related to the discharge of an official duty, is imperative to protect the police officer from facing harassive, retaliatory, revengeful and frivolous proceedings. The requirement of sanction from the government, to prosecute would give an upright police officer the confidence to discharge his official duties efficiently, without fear of vindictive retaliation by initiation of criminal action, from which he would be protected under [Section 197](#) of the Code of Criminal Procedure. Though certain offences committed by a police officer does not require prior sanction under section 197 of Cr.P.C., as per the Criminal Law (Amendment) Act, 2013, the remedy is available only when the alleged act done by the public servant is reasonably connected with the discharge of his official duty and not merely a cloak for doing the objectionable act. While doing his official duty, he acted in excess of his duty, but there is a reasonable connection between the act and the performance of the official duty, the excess will not be a sufficient ground to deprive the public servant of the protection. An offence committed entirely outside the scope of the duty of the police officer, would certainly not require sanction. If a policeman while doing official duty has acted in excess of duty, but there



is a reasonable connection between the act and the performance of the official duty, the fact that the act alleged is in excess of duty will not be ground enough to deprive the policeman of the protection of government sanction for initiation of criminal action against him. Therefore, the provision under Section 197 of Cr.P.C, is very clear that sanction is required not only for acts done in discharge of official duty, it is also required for an act purported to be done in discharge of official duty and/or act done under colour of or in excess of such duty or authority.

7. Further, the question of sanction is of paramount importance for protecting a public servant who has acted in good faith while performing his duty. The public servant may not be unnecessarily harassed on a complaint of an unscrupulous person, which is obligatory on the part of the executive authority to protect him. Admittedly, in the case on hand, the petitioner failed to obtain any previous sanction to prosecute the third respondent, when the third respondent while discharging his official duty, the petitioner alleged that the third respondent had committed offence. Therefore, the trial court rightly dismissed the complaint and this Court finds no infirmity or illegality in the impugned order.



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8. In view of the above discussion, this criminal revision case is dismissed.

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
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