



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.11.2011

CORAM:

THE HONOURABLE MR.JUSTICE V.PERIYA KARUPPIAH

Cr1.O.P. (MD) .No.15624 of 2011

K.Mohanambal

... Petitioner

Vs.

State rep. by
Sub Inspector of Police
All Women Police Station
Dindigul

... Respondent

PRAYER: This Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to direct the respondent to register the FIR as per complaint dated 28.10.2011 (registered in CSR No. 413/2011).

For Petitioner : Mr.M.S.Suresh Kumar

For Respondent : Mr.P.Kannithevan
Govt. Advocate (Cr1. Side)

O R D E R

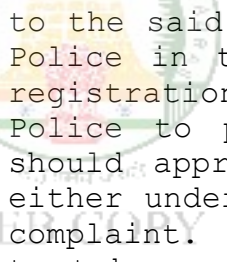
This Criminal Original Petition has been filed to direct the respondent to register the FIR as per complaint dated 28.10.2011 (registered in CSR No. 413/2011).

2. Heard Mr.M.S.Suresh Kumar, learned counsel appearing for the petitioner and Mr.P.Kannithevan, learned Government Advocate (Criminal Side) appearing for the State.

3. The learned counsel for the petitioner would submit in his argument that the complaint given by the petitioner to the respondent was not registered. Hence, he requests this Court that the respondent may be directed to hold an enquiry and to register a case accordingly.

4. The learned Government Advocate (Criminal side) would submit in his argument that the said complaint is under petition enquiry stage and if *prima facie* case is made out, the said complaint would be registered and the investigation would also be commenced. However, he would submit in his argument that if for any reason there is no *prima facie* case made out, it is for the petitioner to proceed in accordance with law and cannot seek a direction of this Court to register a complaint.

5. Considering the submissions made by both sides, this Court could see that if any complaint is pending before the respondent police, he is directed to enquire into the matter and if any *prima facie* case is found in the complaint, to register the same and if there is no *prima facie* case found, the respondent is entitled to close the petition. In case of dropping of the case, the petitioner is not remediless since he is entitled to proceed in accordance with law and also as per the dictum laid down for registration of the complaint in a Judgment of Hon'ble Apex Court in **Sakiri Vasu v. State of U.P.** reported in **2008(1) MLJ (Cr1) 1393 (SC)** equivalent to the judgment reported in **2007 (4) Crimes 338 (SC)**. According



to the said judgment, the complainant should approach the Superintendent of Police in the event of the respondent police failed to proceed with the registration of the complaint and on the failure of the Superintendent of Police to pass any order under Section 154(3) Cr.P.C., the complainant should approach the Judicial Magistrate concerned by filing a complaint either under Section 190 Cr.P.C. or under Section 200 Cr.P.C. to pursue the complaint. It is the discretion of the learned Judicial Magistrate either to take cognizance of the case under Section 200 Cr.P.C. or to refer the complaint for being investigated by the jurisdictional police under Section 156(3) Cr.P.C. So far as this case is concerned, the petitioner is yet to seek remedy before the jurisdictional Judicial Magistrate concerned before approaching this Court. Therefore, it has become necessary for this Court to direct the petitioner to file a complaint before the Judicial Magistrate concerned if necessary, after the formalities before police, ended against the petitioner. On such filing of the complaint, the Judicial Magistrate concerned may either refer under Section 156(3) Cr.P.C. or to proceed under Section 200 Cr.P.C. Thereafter only the petitioner to approach this Court, if necessary. Therefore, the petitioner should approach this Court only after exhausting all the process of law as contemplated. But he had approached this Court without following the procedures mentioned therein and therefore this Court has no other option to dispose the petition with the aforesaid observations. Accordingly, this Petition is disposed of.

Sd/-

Assistant Registrar (Cr1.side)

/True copy/

Sub Assistant Registrar (C.S)

To

1. The Sub Inspector of Police
All Women Police Station
Dindigul
2. The Additional Public Prosecutor
Madurai Bench of the Madras High Court
Madurai

+1. CC to Mr.M.S.Sureshkumar, Advocate, SR.No. 42185

vsg/am

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TR : 12.12.2011: 2p/4c