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CrI.RC.1527/2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.03.2023

CORAM

THE HONOURABLE MR. JUSTICE V. SIVAGNANAM

CRL.R.C.NO.1527 of 2022

Saravanan

... Petitioner

Vs

1. The State, represented by
the Inspector of Police,
Thirupattur Town Police Station.
2. Ayyappan @ Anand,
near Murugan Temple,
Othakadai Street,
Avallurpettai,
Melmalaiyanoor Taluk,
Thiruvannamalai District.

... Respondents

Prayer: Criminal Revision Petition filed under section 397 r/w.401 Cr.P.C. to set aside the order in C.M.P.No.2446 of 2022 passed by the Judicial Magistrate-1, Tirupattur, dated 22.06.2022 and by allowing the present criminal Revision Petition.

For Petitioner : Mr.G. Muniraj

For Respondents : Mr. R.Vinoth Raja
Govt. Advocate (Crl.side)



Crl.RC.1527/2022

ORDER

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This Criminal Revision Petition is filed challenging the order passed by the Judicial Magistrate-I, Tirupattur, on 22.06.2022 in Crl.M.P.No.2446 of 2022, dismissing the protest petition seeking to direct the 1st respondent to register an FIR against the 2nd respondent and also to monitor the probe.

2. The learned counsel for the petitioner submitted that the petitioner filed a complaint before the Judicial Magistrate I, Tiruppur, Vellore District, under section 156(3) Cr.P.C., seeking a direction to the respondent police to investigate the matter and the same was taken on the file in CMP.No.1044 of 2023. The learned Judicial Magistrate, by its order dated 2.3.2022, directed the 1st respondent to investigate the case and, if a cognizable offence is made out, to file a FIR and proceed in accordance with law. But the 1st respondent-The Inspector of Police, without sending final report on investigation, sent a report to Judicial Magistrate without giving any finding of investigation. Based upon that, the petitioner filed a protest petition in Crl.M.P.No.2446 of 2022. The learned Magistrate, without considering the above fact, dismissed the protest petition. Hence, it is challenged in this



Crl.RC.1527/2022

Criminal Revision case.

WEB COPY

3. When the matter is taken up for hearing, the learned Govt. Advocate (crl.side) submitted that originally the petitioner filed a complaint before the Judicial Magistrate for forwarding the same under section 156(3) Cr.P.C. to the respondent police for registering a case and to investigate the same. Though the police made an enquiry, instead of sending final report on investigation, the 1st respondent has sent a report to the court below. Objecting the said report, the petitioner filed a protest petition. The trial judge dismissed the protest petition.

4. Heard both sides and perused the materials available on record.

5. On perusal of records, the fact reveals that the petitioner has filed a complaint before the Judicial Magistrate I, Tirupattur, Vellore District under 156(3) Cr.P.C., for registering a case and to investigate the same with regard to some allegation raised against the second respondent viz., Ayyappan @ Anand. The learned Magistrate, on receiving the complaint in Crl.M.P.No.1044 of 2022, by his order dated 2.3.2022, directed the 1st respondent to investigate into the matter and if a cognizable offence is made out, he was directed to file FIR and proceed in accordance with law and file



Crl.RC.1527/2022

final report. For that direction, the 1st respondent-Inspector of Police, has not filed final report and result of the investigation, but he sent a report dated 22.3.2022. Aggrieved by this, the petitioner filed a protest petition in Crl.M.P.No.2446 of 2022.

6. A further perusal of records would reveal that the learned Magistrate, without ascertaining the investigation report, dismissed the protest petition based on the report filed by the respondent police alleging that the petitioner has approached this Court for the reason that he should not be called back by the police officials for enquiry. Once a complaint is forwarded to the concerned police by a Judicial Magistrate under section 156(3) Cr.P.C., for the purpose of investigation, it is the bounden duty of officer in charge of the police station to register the FIR. Therefore, the impugned order passed by the Court below is unsustainable in law, hence the same is hereby set aside and the Criminal Revision is allowed.

7. In the result,



Cri.RC.1527/2022

(i) The Criminal Revision is allowed.

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(ii) The original petition is restored to file of Judicial Magistrate No.1,

Thirupattur, Vellore District.

(iii) The Judicial Magistrate No.1, Thirupattur, Vellore District is directed to get final report of investigation from the 1st respondent and on receiving such final report from the respondent police, he is directed to take further action on merits and in accordance with law.

30.03.2023

msr

Index: yes/no

Internet:yes/no

To

1. The Inspector of Police,
Tirupattur Town Police Station,
Tirupattur.
2. The Judicial Magistrate No.I, Tirupattur.
3. The Public Prosecutor,
Madras High Court.

V. SIVAGNANAM, J.



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Cri.RC.1527/2022

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CRL.R.C.NO.1527 of 2022

30.03.2023