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Court : Chennai Madurai

Decided On : Jun-24-2016

Judge : The Honourable Dr. Justice P. Devadass

Appeal No. : Crl.O.P.(MD) No. 10029 of 2016

Appellant : A. Krishnan

Respondent : The Superintendent of Police, Vigilance and Anti Corruption, Chennai and Another

Judgement :

(Prayer: Criminal Original Petition is filed, under Section 482 Cr.P.C., praying to direct the respondents to register the case on the petitioner's complaint dated 20.05.2016.)

1. In this Crl.O.P., under Section 482 Cr.P.C.,. Krishnan, the petitioner herein, came forward to direct the 2nd respondent, namely, DSP, Vigilance and Anti Corruption, Virudhunagar District at Virudhunagar to register a criminal case as against Malarvizhi, V.A.O., Rajapalayam Town, investigate and proceed further as per law.

2. According to the learned counsel for the petitioner, the said woman V.A.O is a corrupt lady. She acted with corrupt motive. As she is a corrupt woman she has to

be corrected by taking action under the prevention of Corruption Act.

3. Almost the power exercised by this Court under Section 482 Cr.P.C. is akin to the power exercised by a learned Magistrate under Section 156(3) Cr.P.C. The difference is one being exercised by this Court and the other being exercised by the Magistrate. In sum and substance, the effect is one and same. The Magistrate forward the complaint to the police under Section 156(3) Cr.P.C. and this Court directs the police to register a case under Section 482 Cr.P.C. In both the matters, the averments must disclose a cognizable offence. It must be based on a credible information.

4. By mere drop of a hat ordering for registration of F.I.R. or forwarding the complaint under Section 156(3) Cr.P.C. for investigation should not be done. By a two lines order the Magistrate under Section 156(3) Cr.P.C. or a few lines order of this Court under 482 Cr.P.C. cannot put the personal liberty of a person at stake.

5. Registration of F.I.R. is not a pleasurable one. Nobody likes to be an accused. Nobody will have a pride in being called an accused. Of course there are certain exceptions. But they are very rare cases.

6. Registration of F.I.R. leads to many unpleasant evil consequences. One will have the title of accused. No one boost himself that he has become an accused. Seriousness is involved in issuing direction under Section 482 Cr.P.C., so also by forwarding a complaint under Section 156(3) Cr.P.C.

7. A reading of the complaint must disclose that there is something, which may be inquired into or probed. Court cannot and should not do it mechanically. No registration of F.I.R. by the mere asking.

8. Now, in this case, from a reading of the averments it is clear that an eternal property dispute is going on between the petitioner and one Murugesan and a case is also pending in a civil Court. Malarvizhi, V.A.O., Rajapalayam issued a certificate to Murugesan.

9. According to the petitioner, she issued the certificate based on incorrect information. According to him, it is improper performance of duty. But in order to

bring a person as accused under Prevention of Corruption Act he says that he might have received money. If these single lines are acted upon, then most of the people will become accused. As already stated, registration of F.I.R. leads to very serious consequences. The career of a woman will be affected. Taking averments as such, the petitioner may approach the District Collector. If the Collector has not taken any action he can file petition to next superior officer. In this matter setting the Prevention of Corruption Act in motion is not correct. It is misuse of power of the Court. There is no element of cognizable offence except some allegation that he is suspecting that the V.A.O. could have received some money.

10. In the light of the above, it is not a fit case under section 482 Cr.P.C. to issue a direction to the Vigilance and Anti corruption Police to register an F.I.R. and trouble that V.A.O. 11. In view of the fore-goings we decline to issue direction as sought for. Thus, this petition fails and it is dismissed. However, it is always open to the petitioner, if he is so advised and if he has strong material, to pursue any other remedy as against the said public servant, namely, Malarvizhi, V.A.O., Rajapalayam before her superior authorities and her higher authorities should not act mechanically and they should take utmost care and caution in taking further action as per law.

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