

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 16.07.2024

CORAM

THE HON'BLE MR.JUSTICE B.PUGALENDHI

CRL.O.P (MD) No.10603 of 2024

Shanthi

... Petitioner

Vs

1. Jeyachitra

2. Anthony Rajan

3. Edison

4. Roshan

5. Selvarathinam

6. John

7. Pounraj

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to set aside the docket order in unnumbered C.R.M.P No.of 2024 on the file of the learned Judicial Magistrate court, Sathankulam and number the petition filed on 29.01.2024 under section 156(3) of Code of Criminal procedure.



For Petitioner : Mr.R.Karunanidhi,

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ORDER

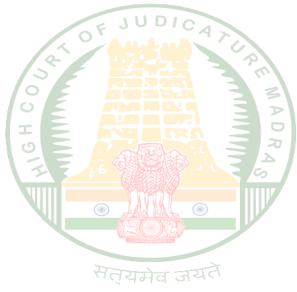
This criminal original petition has been filed seeking to set aside the impugned docket order passed in C.R.M.P No. unnumbered of 2024, on the file of the learned Judicial Magistrate court, Sathankulam.

2.The learned Counsel appearing for the petitioner claims that the returns have been complied with. Even thereafter, the petitioner's application has not been forwarded under Section 156(3) Cr.P.C. to the concerned Police officer.

3.On perusal of records it appears that the petitioner has filed a complaint before the learned Judicial Magistrate, Sathankulam under Section 156(3) Cr.P.C. with a request to refer the complaint for preliminary enquiry. However, the learned Judicial Magistrate, Sathankulam, by order, dated 16.02.2024, has returned the application on the following grounds:

"At Present

1.Process memo not filed.



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2. Stamp not affixed in xerox copies.

3. No documents regarding the theft properties filed.

4. No clear prayer mentioned against all the accused persons.

Hence returned."

4. However, the petitioner claims that except the third condition, she has complied with the other conditions. According to the petitioner, the motor pump set and wires, have been stolen from her agricultural field and she has not maintained any receipts or bills with her. But the fact remains that the motor was in existence with wire, which was also in use. But now they are found missing. The petitioner is also having doubt on the adjacent land owners.

5. Considering the above, this Court feels that the learned Judicial Magistrate, Sathankulam, while dealing with an application filed under Section 156(3) Cr.P.C, has to ascertain whether prima facie offence is made out or not.



6.The motor pump set and wires have been stolen from the petitioner's agricultural land. However, she is not having any receipts for the same. On this score alone, reference under Section 156(3) Cr.P.C. cannot be denied. It can be referred to the police officer concerned for conducting an enquiry and to ascertain whether any offence has been made out and thereafter, a case shall be registered.

7.Therefore, the learned Judicial Magistrate, Sathankulam, Thoothukudi District, is directed to refer the petitioner's complaint filed under Section 156(3) Cr.P.C, without insisting for the receipts, provided if she has complied with the other returns.

8.With the above direction, this criminal original petition is allowed.

16.07.2024

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

Note: Registry is directed to return the original paper after getting due acknowledgment.

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To
1. The Judicial Magistrate,
Sathankulam,
Thoothukudi District.

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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VERDICTUM.IN



Crl.O.P.(MD) No.10603 of 2024

B.PUGALENDHI, J.

LR

CRL.O.P (MD) No.10603 of 2024

16.07.2024