

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2015

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Crl.O.P.No.24151 & 24251 of 2015

&

MP.NO.1 OF 2015

Reserved on 09.12.2015

K.Mohanraj ... Petitioner in
Crl.O.P.24151 of 2015

J.Jayapaul Mohan ... Petitioner in
Crl.O.P.24251 of 2015

Vs

1. J.Jayapaul Mohan ... 1st respondent in
Crl.O.P.24151 of 2015

2. K.Mohanraj
3. Kumara Gurubaran ... Respondents 1 & 2
in CrlOP24251 of 2015

4. State rep. By
Inspector of Police,
E-3, Teynampet Police Station,
Chennai-600 018. ... Respondent 2 in
Crl.O.P.24151 of 2015
& Respondent 3 in
Crl.O.P.24251 of 2015

Prayer in Crl.O.P.24151 of 2015: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in Crl.M.P.No.1748 of 2015 on the file of the Chief Metropolitan Magistrate, Egmore, Chennai and set aside the order, dated 18.4.2015 passed therein.

Prayer in Crl.O.P.No.24251 of 2015: Criminal Original Petition filed under Section 482 Cr.P.C. seeking a direction to the third respondent to register an FIR against the respondents 1 and 2 as per the order of the learned Chief Metropolitan Magistrate, Egmore, Chennai-08 in Crl.M.P.No.1748 of 2015 dated 18.04.2015

and investigate the matter in accordance with law and file final report.

For Petitioner in : Mr.K.Sukumaran

Cr1OP24151/2015

For Petitioner in : Mr.M.Anandaraaj

Cr1OP24251/2015

For Respondents : Mr.C.Emalias

Additional Public Prosecutor for State

COMMON ORDER

Cr1.O.P.No.24151 of 2015 has been filed by the petitioner, K.Mohanraj, praying to call for the records in Cr1.M.P.No.1748 of 2015 on the file of the Chief Metropolitan Magistrate, Egmore, Chennai and set aside the order, dated 18.04.2015 passed therein.

2. Cr1.O.P.No.24251 of 2015 has been filed by the petitioner, J.Jayapaul Mohan, seeking a direction to the third respondent to register an FIR against the respondents 1 and 2 as per the order of the learned Chief Metropolitan Magistrate, Egmore, Chennai-08 in Cr1.M.P.No.1748 of 2015 dated 18.04.2015 and investigate the matter in accordance with law and file a final report.

3. Since the parties and the subject matter involved in these two petitions are common, these two petitions are taken up together for final disposal. For the sake of convenience, the parties will be herein referred to as per their rankings in Cr1.O.P.No.24251 of 2015.

4. The petitioner, Mr.J.Jayapaul Mohan has moved a petition in Cr1.M.P.No.1748 of 2015 under Section 156(3) of Cr.P.C. before the learned Chief Metropolitan Magistrate, Egmore, Chennai-08, praying to forward the complaint made by him, to the Inspector of Police, E-3 Teynampet Police Station with a direction to register FIR against the respondents 1 and 2, namely, Mr.K.Mohanraj and Mr.Kumara Gurubaran. In the said petition, the petitioner J.Jayapaul Mohan has averred as follows:

That the petitioner lodged a complaint before the Inspector of Police, E-3 Teynampet Police station on 7.3.2015 stating that one Mr.Rajagopal, who was working in Royapettah Hospital as Assistant Engineer, had taken the cycle stand collection money of Rs.2,41,800/- in respect of which, a case was lodged before the

Inspector of Police, E3 Police Station, Teynampet, Chennai. He came to know that departmental action was also taken against said Rajagopal. In order to safeguard Mr.Ragagopal, one Mr.M.Kumara Gurubaran along with some people on the instructions of Mr.Mohanraj, who is the President of PWD Engineers Association, came and took away some documents which were related to the said Rajagopal case, without his knowledge. Though he lodged the complaint, no action was taken by the concerned police. Hence, he filed the present petition under Section 156(3) Cr.P.C., for the relief as stated above.

5. The above said petition was entertained by the learned Chief Metropolitan Magistrate and passed an order, dated 18.4.2015 was passed by him, which reads as under:

"Complainant present. 1 to 4 documents submitted by the complainant have been perused. Learned counsel for the complainant would submit that on the instigation of Mr.K.Mohanraj, Mr.Kumara Gurubaran, had taken some of the documents which were in the custody of the complainant. The complainant already submitted a complainant before the Inspector of Police, E-3, Teynampet Police Station and the Commissioner of Police, Greater Chennai. No action was taken. The complaint and the documents reveal that there is a prima facie case. Hence this complaint has been forwarded and the Inspector of Police, E-3 Teynampet Police Station is directed to register an FIR and investigate the matter and submit a report before this Court."

6. Aggrieved by the above said order, the first respondent, K.Mohanraj has come forward with CrI.O.P.No.24151 of 2015 praying to quash the said order, whereas, the petitioner, J.Jayapaul Mohan has come forward with CrI.O.P.No.24251 of 2015, praying this Court to direct third respondent/Inspector of Police, E-3 Teynampet Police Station, to register a FIR against the said respondents 1 and 2, namely, K.Mohanraj and Kumara Gurubaran as per the order of the learned Chief Metropolitan Magistrate, Egmore, Chennai-08.

7. Mr.M.Anandaraj, learned counsel appearing for the petitioner, would submit that though the petitioner lodged a complaint against respondents 1 and 2 for their illegal action by taking away the documents without the knowledge of the petitioner, the 3rd respondent Police has not taken any action, which constrained the petitioner to approach the Court and though the learned Chief Metropolitan Magistrate has specifically directed him to register the case, the 3rd respondent has not registered the case so far. Hence, the

learned counsel sought for a direction to direct the third respondent to register the case based on the orders of the learned Chief Metropolitan Magistrate.

8. While opposing the petition filed by the first respondent for quashing the order, dated 18.4.2015 passed by the Chief Metropolitan Magistrate, Egmore, the learned counsel for the petitioner would submit that the first respondent has no locus standi to object the petition filed by the petitioner seeking a direction to register the case and only after registering the FIR, he can challenge the same and not at this stage. In support of his submissions, the learned counsel relied upon a decision reported in "(2007) 1 MLJ (Cr1) 1009 (Sivakama Sundari Ravi versus State by Inspector of Police, All Women Police Station, Teynampet, Chennai and another", wherein, this Court has held as under in para 13:

"13. It is also needless to reiterate that the proposed accused persons have no locus standi to raise their voice at this stage, viz., prior to the registration of the First Information Report. It is well settled by a number of decisions of the Hon'ble Apex Court that the proposed accused persons have no right to interfere into the registration of the First Information Report or to interfere into the matter in which the investigation to be conducted in a case."

9. The learned counsel also relied upon the decision of the Full Bench of the Hon'ble Supreme Court, reported in "AIR 2014 SC 187 (Lalita Kumari versus Government of U.P. and others)" , wherein, it has been held as under in para 110.

"110. Therefore, in view of various counter claims regarding registration or non-registration, what is necessary is only that the information given to the police must disclose the commission of a cognizable offence. In such a situation, registration of an FIR is mandatory. However, if no cognizable offence is made out in the information given, then the FIR need not be registered immediately and perhaps the police can conduct a sort of preliminary verification or inquiry for the limited purpose of ascertaining as to whether a cognizable offence has been committed. But if the information given clearly mentions the commission of a cognizable offence, there is no other option but to register an FIR forthwith. Other considerations are not relevant at the stage of registration of

FIR, such as, whether the information is falsely given, whether the information is genuine, whether the information is credible etc. There are the issues that have to be verified during the investigation of the FIR. At the stage of registration of FIR, what is to be seen is merely whether the information given ex facie discloses the commission of a cognizable offence. If, after investigation, the information given is found to be false, there is always an option to prosecute the complaint for filing a false FIR."

10. Therefore, the learned counsel for the petitioner would submit that on consideration of the complaint made by the petitioner, the learned Chief Metropolitan Magistrate has specifically directed the concerned police to register the case, observing that there is a prima facie case and hence, it is mandatory on the part of the 3rd respondent/Inspector of Police to register the FIR since the information given by the petitioner as against the respondents 1 and 2 clearly mentions the commission of a cognizable offence.

11. On the other hand, Mr.K.Sukumaran, learned counsel appearing for the first respondent/petitioner in CrI.O.P.No.24151 of 2015, questioning the order, dated 18.4.2015 passed by the learned Chief Metropolitan Magistrate in CrI.M.P.No.1748 of 2015, would submit that the learned Magistrate has failed to note that the information given by the petitioner does not disclose the commission of a cognizable offence so as to direct the 3rd respondent police to register the case and no ingredients of Sections 448, 379 and 120(B) IPC were prima facie made out in the complaint lodged by the petitioner against the respondents 1 and 2 and hence, the Magistrate ought not to have forwarded the complaint under Section 156(3) Cr.P.C.. He would further submit that the petitioner has suppressed even the designation of the respondents 1 and 2, who are none other than the Superintending Engineer of PWD and the Inspector of Police, Vigilance and Anti-corruption respectively in order to mislead the Magistrate to thwart the investigation of illegal gratification against the petitioner. He pointed out that since the respondents 1 and 2 are the public servants, compliance of Section 197 Cr.P.C. is a condition precedent to prosecute them and without getting such prior sanction from the competent authority, the Magistrate cannot forward the complaint. Therefore, the learned counsel would submit that without considering these aspects, the learned Chief Metropolitan Magistrate has mechanically forwarded the complaint to the 3rd respondent and hence, the order dated 18.04.2015

passed in CrI.M.P.No.1748 of 2015 is liable to be set aside. In support of his submissions, the learned counsel relied upon the decisions reported in "(2013) 10 SCC 705 (Anil Kumar and others versus M.K.Aiyappa and another)", "(2015) 6 SCC 439 (Ramdev Food Products Privated Ltd., versus State of Gujarat)" and "(2015) 6 SCC 287 (Priyanka Srivastava and another versus State of Uttar Pradesh and others).

12. In reply, the learned counsel appearing for the petitioner would submit that the question relating to the need of sanction under Section 197 is not necessarily to be considered as soon as the complaint is lodged and the allegations contained therein and this question may arise at any stage of the proceedings and whether sanction is necessary or not will have to be determined from the stage to stage. Therefore, the learned counsel would submit that when such being the situation, sanction is not necessary while forwarding the complaint to the Police Officer and on this ground, the order of the learned Magistrate cannot be questioned. In support of his submission, the learned counsel relied upon a decision reported in "(2007) 1 SCC 1 (Parkash Singh Badai and another versus State of Punjab and others)", wherein, it has been held as under in para 38.

"38. The question relating to the need of sanction under Section 197 of the Code is not necessarily to be considered as soon as the complaint is lodged and the allegations contained therein and this question may arise at any stage of the proceedings and whether sanction is necessary or not will have to be determined from the stage to stage."

13. Heard the learned counsel appearing on either side and the learned Additional Public Prosecutor and perused the entire materials placed on record.

14. Now the question for determination is whether the order passed by the learned Chief Metropolitan Magistrate, forwarding the complaint under Section 156(3) Cr.P.C. to the 3rd respondent with a direction to register the FIR and investigate the matter, is legally sustainable?

15. If this question is decided, it will have cascading effect on the prayer made by the petitioner, J.Jayapaul Mohan in CrI.O.P.No.24251 of 2015.

16. The main allegation canvassed against the respondents 1 and 2 by the petitioner is that certain documents which were in his custody, were stolen by them. With this allegation, the petitioner lodged a complaint before the 3rd respondent and since

no action was taken by him after assigning CSR number, the petitioner moved a petition before the learned Chief Metropolitan Magistrate, seeking to forward the complaint under Section 156(3) Cr.P.C. to the 3rd respondent with a direction to register the FIR and investigate the matter. It is to be noted that despite having knowledge about the designation of the respondents 1 and 2, who are none other than the Superintending Engineer of PWD and the Inspector of Police, Vigilance and Anti-corruption respectively, the petitioner has moved the petition suppressing their designation so as to avoid the procedure in getting prior sanction under Section 197 Cr.P.C. Further as could be seen from the complaint made by the petitioner under Section 156(3) Cr.P.C. before the learned Magistrate, there is absolutely no allegation against the respondent No.1, Mr.Mohanraj, who is the Superintending Engineer. Para 3 is relevant and it is extracted hereunder:

"3. The complaint states that he came to know that departmental action has been taken against Mr.Rajagopal to save guard him one of his employee Mr.M.Kumara Gurubaran along with some people taken documents pertaining to Rajagopal case in the above crime on 06.03.2015 afternoon without knowledge of complainant."

17. On a perusal of the above, it is revealed that the petitioner made an allegation against the second respondent, M.Kumara Gurubaran that on 6.3.2015 afternoon, he along with some people had taken some documents pertaining to Rajagopal case without the knowledge of the petitioner and no allegation against the first respondent was made, except stating in para 5A that with the instruction of Mr.Mohanraj, who is none other than the President of PWD Engineer Association, the offence has been committed in a criminal conspiracy. The learned Magistrate also, by mentioning one line sentence, stated that on the instigation of Mr.K.Mohanraj, Mr.Kumara Gurubaran, had taken some of the documents which were in the custody of the petitioner and has directed the police to register a FIR and investigate the matter in exercise of his power under Section 156(3) Cr.P.C. It is settled law that Section 156(3) has to be exercised only when there is sufficient ground to proceed and before exercising such jurisdiction under Section 156(3) Cr.P.C., the Magistrate is required to apply his mind in a proper perspective and the same should be reflected in his order and merely stating that he has gone through the complaint, documents and heard the complainant, will not be sufficient and after going through the complaint, documents and hearing the complainant, what weighed with the Magistrate to order investigation under Section 156(3) Cr.P.C. should be reflected in the order. On a perusal of the order passed by the Magistrate, it appears that nowhere it has been reflected that

the Magistrate has actually applied his mind and come to the conclusion that in the given case, there is sufficient ground to proceed and order for an investigation to be done by the respondent police. Mere fact that the petitioner/complainant approached the police and the police did not register FIR, is not sufficient to order investigation under Section 156(3) Cr.P.C. The only allegation made by the petitioner against the second respondent that he had taken away some documents which were in his custody. The Magistrate has not even looked into the matter prima facie to find out the genuineness of the complaint namely as to what kind of documents that were said to have been taken away by the second respondent and whether the said documents are really connected with the case of Rajagopal and on which date, the petitioner/complainant came to know about the incident and whether such information provided by the petitioner is credible in order to proceed forthwith, etc., and whether such allegations would satisfy the ingredients of an offence punishable under Section 448 or 379 IPC warranting investigation by the police. Therefore, without considering all these aspects and without taking any effort prima facie to find out the genuineness of the complaint, the learned Magistrate, as rightly submitted by the learned counsel for the first respondents, has mechanically passed the order without application of mind. Therefore, I am of the considered view that the learned Magistrate is not justified in ordering for registration of the complaint and for investigation of the same by Police in such a mechanical manner without proper application of mind.

18. In fact, it is the specific case of the first respondent K.Mohanraj that one Rajagopal, Assistant Engineer was placed under suspension on the allegation that he misappropriated an amount of Rs.2,41,800/- collected towards cycle stand at Royapettah Hospital and failed to remit the same. A criminal case was also lodged against him in Crime No.229 of 2010 on the file of E2, Royapettah Police Station. While so, the said Rajagopal had given a complaint against the petitioner, Jayapaul Mohan alleging that he demanded Rs.2 lakh as illegal gratification to revoke his suspension and to get him posting in a good place. Based on this, PWD Department issued three charge memos against the petitioner and he was not even allowed to retire by the department. The investigation over the said complaint was entrusted with the second respondent Kumara Gurubaran, Inspector of Police, Vigilance and Anticorruption. During the course of investigation, on 26.2.2015, the second respondent Mr.Kumara Gurubaran, Inspector of Police, wrote a letter to the Executive Engineer for procuring the documents numbering 10 relating to said Rajagopal from the office of AEE, Building Maintenance, DMS Campus, Teynampet, Chennai. In compliance of the said request, the Executive Engineer, PWD instructed the Section Superintendent to retrieve the documents

relating to Rajagopal and handed over the same to the Inspector of Police, Mr. Kumara Gurubaran. In the said letter itself, the Inspector of Police had acknowledged the receipt of the documents. Therefore, the Inspector of Police, Mr. Kumara Gurubaran, had collected the documents in his capacity as an Investigation Officer during the course of investigation of a matter relating to illegal gratification made against the petitioner by said Rajagopal. Therefore, the learned counsel for the first respondent would submit that there is no truthfulness in the allegations made by the petitioner against the first and second respondents in his complaint made by him under Section 156(3) Cr.P.C. before the learned Magistrate and the learned Magistrate, without applying the mind in the manner provided and without even looking into the matter prima facie to find out the genuineness of the complaint as to whether the information provided by the petitioner would prima facie disclose any cognizable offence, etc., has ordered investigation in exercise of his power under Section 156(3) Cr.P.C., which is not sustainable. Having regard to the facts and circumstances and in view of the above discussion, I am entirely in agreement with the submissions made by the learned counsel for the first respondent.

19. In this regard, it is worthwhile to refer the decision "(2015) 6 SCC 439 (Ramdev Food Products Private Ltd., versus State of Gujarat)", wherein, the Hon'ble Supreme Court has held as under in para 19 and 20.

"19. Thus, this Court has laid down that while prompt registration of FIR is mandatory, checks and balances on power of police are equally important. Power of arrest or of investigation is not mechanical. It requires application of mind in the manner provided. Existence of power and its exercise are different. Delicate balance had to be maintained between the interest of society and liberty of an individual. Commercial offences have been put in the category of cases where FIR may not be warranted without enquiry.

"20. It has been held, for the same reasons, that direction by the Magistrate for investigation under Section 156(3) cannot be given mechanically. In 'Anil Kumar vs. M.K. Aiyappa', it was observed : 5 (2013) 10 SCC 705 Page 19 of Page 20 Criminal Appeal No.600 of 2007

"11. The scope of Section 156(3) CrPC came up for consideration before this Court in several cases. This Court in Maksud Saiyed case [(2008) 5 SCC 668] examined the requirement of the

application of mind by the Magistrate before exercising jurisdiction under Section 156(3) and held that where jurisdiction is exercised on a complaint filed in terms of Section 156(3) or Section 200 CrPC, the Magistrate is required to apply his mind, in such a case, the Special Judge/Magistrate cannot refer the matter under Section 156(3) against a public servant without a valid sanction order. The application of mind by the Magistrate should be reflected in the order. The mere statement that he has gone through the complaint, documents and heard the complainant, as such, as reflected in the order, will not be sufficient. After going through the complaint, documents and hearing the complainant, what weighed with the Magistrate to order investigation under Section 156(3) CrPC, should be reflected in the order, though a detailed expression of his views is neither required nor warranted. We have already extracted the order passed by the learned Special Judge which, in our view, has stated no reasons for ordering investigation."

The above observations apply to category of cases mentioned in Para 120.6 in Lalita Kumari (supra)."
(Emphasis added)

20. In "(2015) 6 SCC 287 (Priyanka Srivastava and another versus State of Uttar Pradesh and others), the Hon'ble Supreme Court has cautioned Magistrates who are exercising power under Section 156(3) Cr.P.C., to be more vigilant with regard to nature of allegations and not to issue directions in a routine and casual manner without proper application of mind as it creates a very unhealthy situation in society and also reflects the erroneous approach of the learned Magistrate. It is held so as under in paragraphs 27 to 30:

"27. Regard being had to the aforesaid enunciation of law, it needs to be reiterated that the learned Magistrate has to remain vigilant with regard to the allegations made and the nature of allegations and not to issue directions without proper application of mind. He has also to bear in mind that sending the matter would be conducive to justice and then he

may pass the requisite order."

"28. Issuing a direction stating "as per the application" to lodge an FIR creates a very unhealthy situation in the society and also reflects the erroneous approach of the learned Magistrate. It also encourages the unscrupulous and unprincipled litigants"

"29. At this stage it is seemly to state that power under Section 156(3) warrants application of judicial mind. A court of law is involved. It is not the police taking steps at the stage of Section 154 of the code. A litigant at his own whim cannot invoke the authority of the Magistrate. A principled and really grieved citizen with clean hands must have free access to invoke the said power. It protects the citizens but when pervert litigations takes this route to harass their fellows citizens, efforts are to be made to scuttle and curb the same. "30. In our considered opinion, a stage has come in this country where Section 156(3) Cr.P.C. applications are to be supported by an affidavit duly sworn by the applicant who seeks the invocation of the jurisdiction of the Magistrate. That apart, in an appropriate case, the learned Magistrate would be well advised to verify the truth and also can verify the veracity of the allegations. This affidavit can make the applicant more responsible. We are compelled to say so as such kind of applications are being filed in a routine manner without taking any responsibility whatsoever only to harass certain persons. That apart, it becomes more disturbing and alarming when one tries to pick up people who are passing orders under a statutory provision which can be challenged under the framework of said Act or under Article 226 of the Constitution of India. But it cannot be done to take undue advantage in a criminal court as if somebody is determined to settle the scores."

(Emphasis added)

21. The learned counsel also relied upon the decision reported in "(2013) 10 SCC 705 (Anil Kumar and others versus M.K.Aiyappa and another)", for the proposition of law that the respondents 1 and 2 are the public servants, the cognizance of

any offence, by any court, is barred by Section 197 Cr.P.C. unless sanction is obtained from the appropriate authority, if the offence, alleged to have been committed, was in the discharge of the official duty. In para 13, it has been held by the Hon'ble Supreme Court as under:

"13. The expression "cognizance" which appears in Section 197 Cr.P.C. came up for consideration before a three-Judge Bench of this Court in State of Uttar Pradesh v. Paras Nath Singh (2009) 6 SCC 372, and this Court expressed the following view:

"6.And the jurisdiction of a Magistrate to take cognizance of any offence is provided by Section 190 of the Code, either on receipt of a complaint, or upon a police report or upon information received from any person other than a police officer, or upon his knowledge that such offence has been committed. So far as public servants are concerned, the cognizance of any offence, by any court, is barred by Section 197 of the Code unless sanction is obtained from the appropriate authority, if the offence, alleged to have been committed, was in discharge of the official duty. The section not only specifies the persons to whom the protection is afforded but it also specifies the conditions and circumstances in which it shall be available and the effect in law if the conditions are satisfied. The mandatory character of the protection afforded to a public servant is brought out by the expression, 'no court shall take cognizance of such offence except with the previous sanction'. Use of the words 'no' and 'shall' makes it abundantly clear that the bar on the exercise of power of the court to take cognizance of any offence is absolute and complete. The very cognizance is barred. That is, the complaint cannot be taken notice of. According to Black's Law Dictionary the word 'cognizance' means 'jurisdiction' or 'the exercise of jurisdiction' or 'power to try and determine causes'. In common parlance, it means taking notice of. A court, therefore, is precluded from entertaining a complaint or taking

notice of it or exercising jurisdiction if it is in respect of a public servant who is accused of an offence alleged to have been committed during discharge of his official duty.” (Emphasis added)

22. Therefore, the learned counsel for the first respondent would submit that the requirement of sanction from the competent authority to proceed against the respondents 1 and 2 is a precondition for ordering investigation under Section 156(3) Cr.P.C. But in the present case, it is to be noted that the petitioner has filed the complainant under Section 156(3) Cr.P.C. before the learned Magistrate by suppressing the official designation of the respondents 1 and 2 and hence, there was no scope for the learned Magistrate to consider the issue regarding the requirement of sanction to proceed against the respondents 1 and 2.

23. In view of the afore said discussion, I am of the considered view that the order passed by the learned Chief Judicial Magistrate, dated 18.4.2015 cannot be sustained and it is liable to be quashed for more than one reason, viz., firstly, though any detailed enquiry is not necessary under Section 156 (3) of Cr.P.C., I find that the learned Magistrate has passed the order in exercise of power under Section 156(3) Cr.P.C. in a mechanical manner without applying the mind and without even looking prima facie to find out the genuineness in the complaint as to whether the information provided by the petitioner is credible and whether it would prima facie disclose any cognizable offence to proceed against the respondents 1 and 2. Secondly, the petitioner has made the complaint under Section 156(3) Cr.P.C. before the learned Magistrate, by suppressing the official designation of the respondents 1 and 2 to wriggle out of the compliance of the condition precedent under Section 197 Cr.P.C., i.e. sanction from the competent authority for ordering investigation against the public servants. Thirdly, the allegations made by the petitioner against the respondents 1 and 2 are vague and of no credibility since the second respondent retrieved the documents in his official capacity as Inspector of Police, Vigilance and Anti-corruption during the course of investigation. Fourthly, the complaint made by the petitioner before the learned Magistrate is bereft of the ingredients of Section 448 or 379 IPC and as such, the same would not disclose any commission of offence, warranting direction to register the case for investigation. Fifthly, as per the dictum laid down in the Judgment reported in 2015(6) SCC 287 referred above, no supporting affidavit was filed by the petitioner to enable the Magistrate to verify the truth and veracity of the allegations made in the complaint. In such view of the matter, the reliance placed upon by the learned counsel for the petitioner cited

supra, in my opinion, will not be helpful to the case of the petitioner. Since the order dated 18.04.2015 passed by the learned Chief Metropolitan Magistrate itself is not in accordance with the cardinal principle of law, the question of considering the objection raised by the petitioner that the first respondent has no locus standi to raise his objection as against the order passed by the learned Chief Metropolitan Magistrate before registering the FIR against him, does not merit any consideration.

24. In light of the above discussion, the order, dated 18.04.2015 passed by the learned Chief Metropolitan Magistrate, Egmore, Chennai-08 is hereby set aside. Accordingly, the prayer sought for by the petitioner to direct the third respondent to register FIR against the respondents 1 and 2 based on the order of the learned Magistrate, cannot be granted.

In the result, the Criminal Original Petition No.24151 of 2015 filed by the petitioner therein/K.Mohanraj, is allowed. Consequently, the Criminal Original Petition No.24251 of 2015 filed by the petitioner/J.Jayapaul Mohan is dismissed. Connected MP is closed.

-s/d-

Assistant Registrar(CO)

dt:25/01/2016

True Copy

Sub-Assistant Registrar

suk/ssv

To

1. The Inspector of Police,
E-3 Teynampet Police Station
Chennai-18

2.The Chief Metropolitan Magistrate,
Egmore, Chennai-8

3.The Public Prosecutor
High Court Madras

+3 ccs to Mr.M.Anandaraj Advocate sr.68557

+1 cc to Mr.K.Sukumaran Advocate sr.68514

Common Order in
Crl.O.P.Nos.24151 &
24251 of 2015

&

MP.NO.1 OF 2015

skv(co)

aa25/01/2016