



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 08.06.2016

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THE HONOURABLE DR.JUSTICE P.DEVADASS

Criminal Revision Case (MD)No.225 of 2016
and

Crl.M.P (MD)No.3011 of 2016

- 1.Rajesh
- 2.Ayyaswami
- 3.Rajeshwari
- 4.Sathasivam

.. Petitioners/Accused 1to4
Vs.

- 1.The State rep by
The Sub Inspector of Police,
All Women Police Station,
Nagercoil,
Kanyakumari District.

- 2.Kannan .. Respondents/De-facto
Complainant

Petition filed under Section 397 and 401 of Cr.P.C, to pass an order revising the order of the learned Judicial Magistrate, No.II, Nagercoil, dated 26.02.2016 made in C.M.P.No.1201 of 2016 forthwith.

For Petitioner :Mr.S.Palanivelayutham

For 1st Respondent:Ms.S.Prabha,
Government Advocate (Crl.Side)

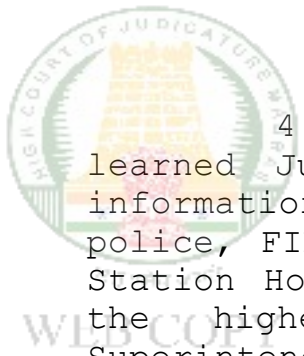
For 2nd Respondent : Mr.N.Dilipkumar

ORDER

This revision is to challenge the order of the learned Judicial Magistrate No.II, Nagercoil, directing the Sub Inspector of Police, All Women Police Station, under Section 156 (3) Cr.P.C to register FIR, investigate and report.

2.The revision petitioners 1 to 4 were shown as respondents in the private complaint. The fall out of the said direction is initiation of investigation.

<https://hcservices.ecourts.gov.in/hcservices/> 3.Apprieved, the revision petitioners have filed this revision.



4. The direction in question has been issued by the learned Judicial Magistrate under Section 156(3) Cr.P.C. If information of commission of a cognizable offence is given to police, FIR has to be registered under Section 154 Cr.P.C. If the Station House Officer failed to do so, the informant can go to the higher police officer. In such circumstances, the Superintendent of Police can direct his subordinate officer to register a case and investigate.

5. Likewise, if a complaint is lodged before a police officer and he does not take any action, although the complainant discloses a cognizable offence, instead of going to the Superintendent of Police as stated above, the complainant can go to a Judicial Magistrate and present a private complaint under Section 200 Cr.P.C. The Magistrate without recording his sworn statement can direct the police to register a case and investigate, provided it discloses a cognizable offence. It is under Section 156(3) Cr.P.C. Even under Section 156 (3) Cr.P.C, Magistrate cannot direct investigation mechanically in each and every case. Once, a direction has been issued under Section 156(3) Cr.P.C, the police is bound to register a FIR, investigate and report to the Court the result of their investigation. As the consequence of issuing such directions under Section 156(3) Cr.P.C will lead to serious consequences before issuing direction under Section 156(3) Cr.P.C, the Magistrate should satisfy himself that the allegations in the private complaint discloses a cognizable offence and they need to be probed.

6. The challenge to an order passed by a Magistrate under Section 156(3) Cr.P.C is very limited. Sitting in revision under Section 397 Cr.P.C, this Court cannot simply nib a prosecution at its nascent stage itself. What this Court has to see is whether the allegations discloses any cognizable offence and if it is so, there ends the matter and beyond that at this stage, the Court cannot traverse because the allegations still have to be verified by the police by embarking upon collection of evidence/investigation.

7. Now in this case, the defacato complainant alleged in his complaint that A1 and A2 have shown a girl as bride and in the connected functions A3 and A4 were also present, actually, the defacato complainant was cheated by showing him a girl who is unfit for marriage. In the complaint, he alleges that A1 to A4 have intentionally cheated him in dumping such a girl on his head and he alleges commission of cheating and certain misappropriation.

8. Assailing the correctness of the order of the learned Judicial Magistrate, the learned counsel appearing for the <https://hccs.courts.gov.in/services> prisoners would allege that a family dispute has been camouflaged as a criminal complaint, the complaint does not disclose any cognizable offence and it is not a fit case for



issuing direction under Section 156(3) Cr.P.C.

9. We must at this stage take the allegations as such. There cannot be shifting or analysis of the allegations, averments, in the complaint and documents, if filed along with the complaint at this stage.

10. A reading of the complaint as a whole would disclose that the defacto complainant has been cheated. The truth or otherwise of the allegations is to be found out by police only after recording the statements from persons acquainted with the facts of the case and also collecting of incriminating documents.

11. In view of the foregoings, this Criminal Revision Case fails and it is dismissed. Consequently, CrI.M.P(MD)No.3011 of 2016 is closed.

Sd/
Assistant Registrar(CS II)

/True copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate, No.II, Nagercoil.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
3. The Sub Inspector of Police,
All Women Police Station,
Nagercoil, Kanyakumari District.

+1cc to Mr.S.Planivelayutham, Advocate in SR.No.29048
+1cc to Mr.N.Dilip Kumaran Advocate in SR.No.28668

SDR/SKS-RR/SAR III/17.06.2016/3P/6C

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