

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.04.2017

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

Crl.O.P.No.7700 of 2017

Mr.T.Selvaraj  
S/o.Mr.Thangaiah

..Petitioner

Vs.

State represented by  
The Inspector of Police,  
R-3, Ashok Nagar Police Station,  
Chennai - 600 083.

... Respondent

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code praying to direct the respondent to comply with the order in M.P.No.4960 of 2016 dated 22.03.2017 on the file of XVII Metropolitan Magistrate Court, Saidapet, Chennai to register a case and file a final report against namely 1)M/s.S.Home & Properties rep. By its Partner Mr.J.B.Gowrishankar, 2) Mr.J.B.GowriShankar, Partner and Mr.Kirubakaran Sales Executive based on the complaint given by the petitioner herein.

For Petitioner : Mr.N.kumara Rajan

For Respondent : Mr.M.Mahammed Riyaz  
Government Advocate (Crl.side)

O R D E R

Petitioner seeks a direction to respondent to comply with the order in M.P.No.4960 of 2016, dated 22.03.2017. Such relief is sought pursuant to the order of learned XVII Metropolitan Magistrate, Saidapet, Chennai, passed in M.P.No.4960 of 2016.

2. Heard learned counsel for petitioner and learned Government Advocate (Crl. Side).

3. The order dated 22.03.2017, reads as follows:

"Complainant present. Report not filed.  
Hence direction given to the  
complainant/petitioner do act in accordance with  
law liberty."

4. Section 156 Cr.P.C. reads as follows:

"156. Police Officer's power to investigate cognizable cases.\_\_\_\_

(1) Any officer in charge of a police station may, without the order of a Magistrate, investigate any cognizable case which a Court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XIII.

(2) No proceeding of a police officer in any such case shall, at any stage, be called in question on the ground that the case was one which such officer was not empowered under this section to investigate.

(3) Any Magistrate empowered under Section 190 may order such an investigation as above mentioned."

5. Section 190 Cr.P.C. reads as follows:

"190. Cognizance of offences by Magistrates:-

(1) Subject to the provisions of this Chapter, any Magistrate of the first class, and any Magistrate of the second class specially empowered in this behalf under sub-Section (2) may take cognizance of any offence-

(a) upon receiving a complaint of facts which constitute such offence;

(b) upon a police report of such facts;

(c) upon information received from any person other than a police officer, or upon his own knowledge, that such offence has been committed.

(2) The Chief Judicial Magistrate may empower any Magistrate of the second class to take cognizance under sub-section (1) of such offences as are within his competence to inquire into or try."

6. Towards exercising power under Section 156(3) Cr.P.C., it is the duty of the Magistrate to determine whether the complaint presented to him makes out a prima facie cognizable case and on his/her being satisfied, issue a direction to concerned police, to register a case and investigate thereupon.

7. With the above clarification, this petition is disposed of.

Sd/-  
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

vsm  
To

- 1.The Inspector of Police,  
R-3, Ashok Nagar Police Station,  
Chennai - 600 083.
- 2.XVII Metropolitan Magistrate Court,  
Saidapet, Chennai
- 3.The Public Prosecutor,  
High Court, Chennai.

+1cc to Mr.N. Kumar Rajan, Advocate, S.R.No.23470

CrI.O.P.No.7700 of 2017

VSN(CO)  
EU 27.4.17

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