

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

W.P.No.29072 2017

P.Deenadayalan

... Petitioner

Vs.

1.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai-600 007.

2.Mr.Nitish Purushothaman,
S/o.Purushothaman,
One of the Partners of M/s.Amexicano,
No.14,9th Main NRI Layout,
Jinkethimmanahalli,
T.C.Palya Post, Bangalore-560 036.

3.Mr.Anoop Menon,
S/o.T.P.Unnikrishnan,
One of the Partners of M/s.Amexicano,
No.22, Anugraha 3rd Main
4th D-Cross Hoysalanagara,
Bangalore-560 016.

4.M/s.Andal Foods Pvt.Ltd.,
Rep. by its Proprietor
Mr.Gowtham,
No.3051, 80 Feet Road,
HAC 2nd Stage, Indiran Nagar,
Beangalore-560 038.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Mandamus to direct the first respondent to consider the petitioner's representation dated 31.10.2017 and to enquire and register the complaint against the 2nd to 4th respondents and take action for recovering the amount from the 2nd to 4th respondents, within the time to be fixed by this Hon'ble Court.

For Petitioner : Mr.G.Krishnamurthy

For Respondent 1: Mr.S.Babu
Government Advocate

For Respondents : No appearance
2 to 4

ORDER

This petition is filed seeking a direction to the 1st respondent police to register a case on the basis of the petitioner's complaint dated 31.10.2017.

2.By consent of both sides, this Writ Petition is taken up for final disposal.

3.The grievance of the petitioner is that inspite of a complaint given by him on 31.10.2017 to the 1st respondent , the same has been kept in abeyance without any action. It is well settled in the judgment of the Hon'ble Supreme Court in Lalita Kumari Vs. Government of Uttar Pradesh and others [2013 (6) CTC 353], that registration of an FIR is mandatory under Section 154 of the Code of Criminal Procedure if an information furnished to the police officer disclose commission of a cognizable offence and in cases where the information does not disclose a cognizable offence, a preliminary enquiry has to be conducted.

4. The 1st respondent is not justified in having received the complaint and keeping it unattended without any further action. In view of the same, the petitioner has made out a case for this Court to invoke its powers under Article 226 of the Constitution of India.

5.In the result, the petitioner is directed to give a copy of the complaint dated 31.10.2017 to the Station House Officer having territorial jurisdiction over the issue. On receipt of the said copy of

the complaint, the concerned Station House Officer shall adhere to the following directions.

1)If the information received by the 1st respondent discloses commission of a cognizable offence, then, the same shall be forthwith registered.

2)If an information received does not disclose a cognizable offence, the 1st respondent shall conduct a preliminary inquiry to ascertain whether cognizable offence is disclosed therein or not and such inquiry shall be completed within a period of fifteen days from the date of information.

3) If the inquiry discloses the commission of a cognizable offence, the FIR must be registered, if not already registered or closed.

4) If the preliminary inquiry ends in closing the complaint, the disclosure report must be recorded along with the reasonings and a copy of the same shall be furnished to the complainant within one week.

5) All information relating to cognizable offences whether resulting in registration of FIR or leading an inquiry must be reflected in the general diary/station diary/daily diary of the 1st respondent's police station.

6. In the result, the Writ Petition is allowed with the above directions. No costs.

-s/d-
Deputy Registrar

True Copy

Sub-Assistant Registrar

nmm
To

1. The Commissioner of Police,
Greater Chennai,
Vepery, Chennai-600 007.

+1 Cc to Mr.S.V.S. Ilamvazhuthi, advocate sr 80448
+1 Cc to Govt. Pleader sr 81471.

सत्यमेव जयते

W.P.No.29072 of 2017

SP(06/12/2017)

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