



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 13.12.2017

PRONOUNCED ON: 21.12.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

W.A. (MD) .No.1108 of 2017
and
C.M.P. (MD) .Nos.7590 and 7591 of 2017

B.Nala Chandrasekaran .. Appellant /Petitioner

Vs.

The Inspector of Police,
Marthandam Police Station,
Marthandam,
Kanyakumari District.

... Respondent / Respondent

PRAYER: This appeal has been filed under Clause 15 of the Letters Patent, against the order, dated 29.06.2017, passed by a learned Single Judge of this Court in W.P. (MD).No.12012 of 2017.

Prayer in WP(MD). 12012/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Mandamus directing the Respondent to register a case on the basis of the petitioners complaint dated 22.02.2017 for offences under sections U/s. 120B, 406, 420, and 403 of IPC within the time stipulated by this Honble Court.

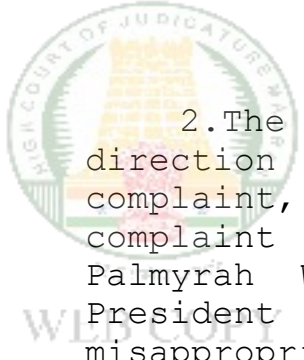
For appellant : Mr.T.Lajapathi Roy

For respondents : Mr.M.Murugan
Government Advocate

JUDGMENT

[Judgment of the Court was made by **R.SUBBIAH, J.**]

This appeal has been filed as against the order dated 29.06.2017 passed by a learned Single Judge of this Court in W.P. (MD).No.12012 of 2017.



2.The appellant herein filed a writ petition seeking a direction to the respondent to register a case based on his complaint, dated 22.02.2017. The appellant has lodged the said complaint as against one A.J.Swornaraj, who is the Secretary of Palmyrah Workers Development Society and one Arun Amirtham, President of the Palmyrah Workers Development Society for misappropriation of funds of the society. Since no action was taken on the said complaint, the appellant has filed the writ petition seeking the above said direction. The learned Single Judge of this Court has dismissed the said writ petition on the ground of maintainability.

3.The learned counsel for the appellant, relying upon the decision of the Hon'ble Supreme Court in **Lalita Kumari Vs. Government of Uttar Pradesh and others** reported in (2014) 2 SCC 1 submitted that the writ petition filed by the appellant is maintainable, in view of the fact that the respondent Police has failed to take any action under Section 154 Cr.P.C., even after completion of seven days time limit fixed by the Hon'ble Supreme Court for conducting preliminary inquiry. He has further submitted that though the complaint has been lodged as early as on 22.02.2017, till date the respondent Police did not take any action either to register or close the complaint. Even in the decision of a learned Single Judge in **Sugesan Transport Pvt. Ltd., Vs. The Assistant Commissioner of Police** reported in 2016 (5) CTC 577, based on which the writ petition was dismissed as not maintainable, it has been held in paragraph No.99 (XII) of the order that "if the Police fail to complete the preliminary enquiry within six weeks as mandated by the Supreme Court in Lalita Kumari -V, the complainant can approach this Court under Article 144 r/w Section 482 Cr.P.C." In this case, the said time limit have gone long before. Even then, the Police did not take any action.

4.Heard the learned Additional Government Pleader appearing for the respondent.

5. Keeping the dictum laid down by the Hon'ble Supreme Court in Lalitha Kumari case, cited supra and also considering the fact that though the complaint has been registered as early as on 22.02.2017, the respondent Police did not either register a case based on the complaint of the appellant or close the complaint of the appellant, we are inclined to set aside the order passed by the learned Single Judge dated 29.06.2017 and dispose of this writ appeal with the following direction:

The respondent Police is directed to register a case based on the complaint of the appellant dated 22.02.2017, if any cognizable offence is made out within a period two weeks from the date of receipt of a copy of this order. In case of closure of the complaint, a copy of the closure report be furnished to the appellant within a week of such closure. On receipt of the same,



it is open to the appellant to work out his remedy in the manner known to law.

6. This writ appeal is, accordingly, ordered. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(W)

/True Copy/

Sub Assistant Registrar

To

1. The Inspector of Police,
Marthandam Police Station,
Marthandam, Kanyakumari District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Gcg

AE/KK/SAR1/11.01.2018/3P/3C

Judgment in
W.A. [MD].No.1108 of 2017
Dated: 21.12.2017