

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.07.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CrI.O.P.No.16871 of 2018

Kishore Kumar Govardanan

... Petitioner

Vs

State rep. by  
Inspector of Police,  
Kanathur Police Station,  
Kanathur, Chennai.

... Respondent

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to set aside the order passed by Judicial Magistrate Alandur in C.M.P.No.3136 of 2018 and direct the respondent to register the complaint dated 27.04.2018, and initiate legal action in accordance with law.

For Petitioner : Mr.L.Infant Dinesh

For Respondent : Mr.C.Raghavan,  
Government Advocate

O R D E R

This Criminal Original Petition has been filed seeking to set aside the order passed by Judicial Magistrate Alandur in C.M.P.No.3136 of 2018 and direct the respondent to register the complaint dated 27.04.2018.

2. The petitioner filed C.M.P.No.3136 of 2018 before the Judicial Magistrate Alandur, under Section 156(3) Cr.P.C. But, however, the Magistrate by the impugned order dated 05.06.2018 has treated the complaint as a private complaint for recording the sworn statement of the complaint under Section 200 Cr.P.C. Challenging which, the petitioner is before this Court.

3. Heard, Mr.Infant Dinesh, learned counsel for the petitioner who submitted that the petitioner himself did not know who the accused and hence, the learned Magistrate ought not to have treated the complaint as a private complaint and should have instead directed police investigation.

4. On a perusal of the complaint in C.M.P.No.3136 of 2018, it does not disclose any cognizable offence at the threshold. In paragraph No.3 of the complaint, the petitioner has stated as follows:

"I submit that thus, on my further verification through local brokers I had found a group of members are into fabrication of documents and monetarize the property by way of ingenuine fabricated document for their own personal illegal benefit. I had also obtained the circulated forged documents for perusal and had ascertained the forgery. Thus, alarming the same to the owners of the property, I was duly instructed by the owners to lodge a criminal complaint with immediate effect, evict the trespassers and safeguard the property in the legal manner."

5. From the above averment, it appears that the petitioner was having in his hand the alleged forged documents. But, however, he has not stated anything about that in his private complaint. Only under those circumstances, the learned Magistrate did not refer the matter to the police under Section 156[3] Cr.P.C and had instead, treated the complaint as a private complaint. Hence, this Court does not find any infirmity in the order passed by the trial Court warranting interference. However, liberty is given to the petitioner to withdraw C.M.P.No.3136 of 2018 before the Judicial Magistrate Alandur, and file a fresh complaint disclosing the commission of a cognizable offence.

With the above observations, this petition is dismissed.

-s/d-  
Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

gmd/gya

To

1.The Judicial Magistrate,  
Alandur.

2.Inspector of Police,  
Kanathur Police Station,  
Kanathur, Chennai.

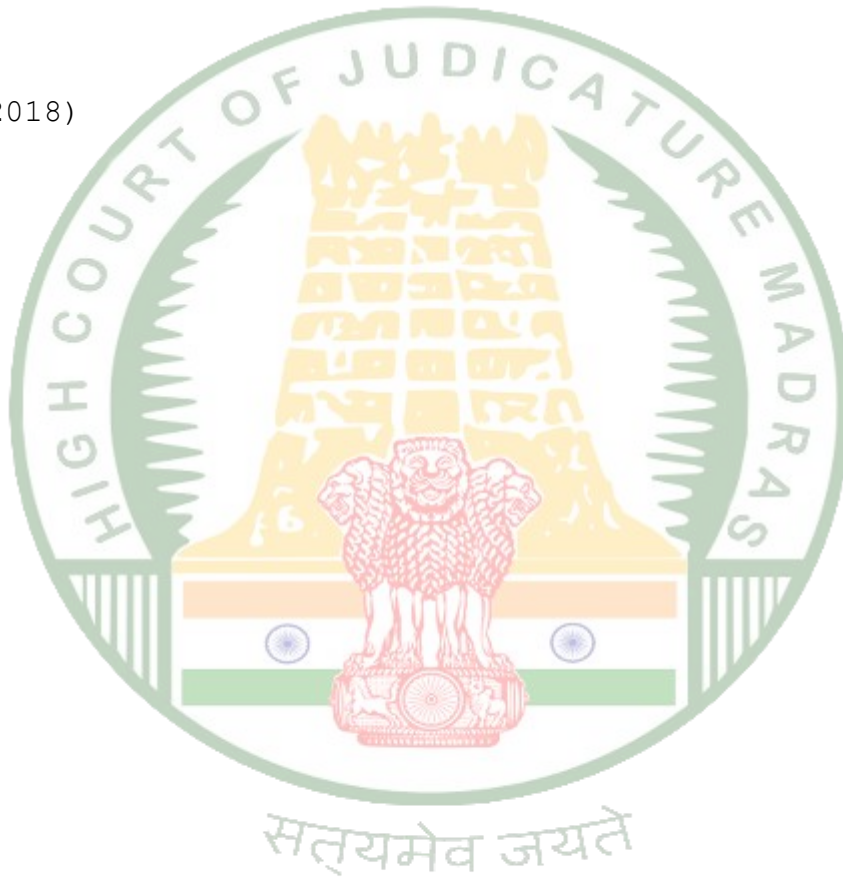
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2.The Public Prosecutor,  
High Court, Madras.

+1 CC to Mr.L.Infant Dinesh , Advocate sr 42544.

Cr1.O.P.No.16871 of 2018

SP(12/07/2018)



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