

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 30.10.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.25315 of 2018

P.Mathavi

.. Petitioner

Vs

1.Dasarathan

2.S.Sakikala

.. Respondents

Criminal Original Petition filed under Section 482 of Cr.P.C., praying to set aside the order dated 19.09.2018 passed in unnumbered private complaint dated 10.09.2018 (unnumbered CC of 2018), on the file of the learned V Metropolitan Magistrate, Allikulam, Egmore and direct him to dispose of the private complaint on merits.

For Petitioner : Mr.V.V.Sairam

O R D E R

It is the case of the petitioner that one Dasarathan and Sasikala had cheated him to a tune of Rs.11,50,000/- and therefore, the petitioner gave a complaint to the Inspector of Police, V-6 Kolathur Police Station on 22.08.2015, but no avail. The petitioner also gave a complaint dated 01.04.2016 to the Central Crime Branch (CCB), Chennai and thereafter, filed Crl.O.P.No.28923 of 2017 under Section 482 Cr.P.C. for a direction to the CCB to register an FIR on his his complaint. This Court, by order dated 21.10.2017, directed the police to conduct an enquiry in terms of the law laid down by the Supreme Court in Lalita Kumari Vs Government of Uttarpradesh and Others [2013(6) 2 CTC 353] and register an FIR, if the complaint discloses commission of a cognizable offence. It appears that even before the order passed by this Court in Crl.O.P.No.28923 of 2017, the CCB has forwarded the petitioner's complaint to the Inspector of Police, V-6 Kolathur Police Station for enquiry, on the ground that the amount is less than Rs.25,00,000/-. Under such circumstances, the petitioner filed a private complaint before the V Metropolitan Magistrate against Dasarathan and Sasikala. The learned Magistrate has returned the private complaint with the following endorsement on 19.09.2018:

"Return Docket Order dated 19.09.2018

In Crl.O.P 28923/17, the Hon'ble High Court, Madras given specific direction to Inspector of Police, CCB Team XXXII, Vepery, Chennai. The direction given by the Hon'ble High Court, Madras not complied by the Police in strict sense, Hence the Complainant is directed to approach the Hon'ble High Court, Madras for appropriate relief.

Sd/-

V (M.M)"

Challenging the said endorsement, the petitioner is before this Court.

2.Heard Mr.V.V.Sairam, learned counsel for the petitioner, who submitted that the petitioner has disclosed the steps taken by him to approach the Inspector of Police, V-6 Kolathur Police Station and the Central Crime Branch, despite which, the Police had not registered any FIR. He also submitted that in the complaint, he has disclosed about Crl.O.P.No.28923 of 2017. Hence, the trial Court ought not to have returned the complaint with the above endorsement.

3.There is sufficient force in the submission of the learned counsel for the petitioner. Even if the Police close a case by conducting a preliminary enquiry or if they close a case after registration of FIR, yet the remedy available to the complainant to file a private complaint cannot be foreclosed. It is for the complainant to establish before the Magistrate that the accused had committed the alleged offences. Hence, the order dated 19.09.2018 passed by the learned Magistrate is set aside and liberty is given to the complainant to re-present the private complaint before the V Metropolitan Magistrate, who shall thereafter, deal with the same in accordance with law.

4.Registry is directed to return the original complaint that has been filed as the impugned order to the learned counsel for the petitioner and retain certified photo copy of the same on file, so as to enable the petitioner to re-present the complaint before the V Metropolitan Magistrate as directed above.

With the above direction, this petition is ordered accordingly.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

dua/gya

To

The V Metropolitan Magistrate,
Allikulam,
Egmore.

+1 cc to Mr.V.V.Sairam, Advocate Sr.No.74202

CRL.OP.No.25315 of 2018

RK (CO)
CSL/19.11.2018



WEB COPY