

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2018

CORAM :

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P.No.26943 of 2018

***B.Sivakumar**

.. Petitioner

Vs

State by Inspector of Police,
V-4 Rajamangalam Police Station,
Chennai - 600 099.

.. Respondent

Criminal Original Petition filed under Section 482 Cr.P.C. to direct the respondent police to register a case on the basis of the complaint given by the petitioner dated 13.06.2018 against the above said persons named in the complaint and investigate into the matter and submit a report to the Court.

For Petitioner :Mr.S.Saravanakumar

For Respondent :Mr.C.Raghavan

Government Advocate (Crl. Side)

O R D E R

This petition has been filed seeking for a direction to the 2nd respondent to register a case based on the complaint given by the petitioner on 13.06.2018.

2. The learned counsel for the petitioner would submit that the petitioner gave a total sum of Rs.13,00,000/- to the accused person, on the promise made by the accused person to get job in the Metro Rail Project. Subsequently, the accused person did not get any job and did not repay the amount also.

3. The learned counsel for the petitioner also brought to the notice of this Court, the undertaking given by the accused person stating that he has received a sum of Rs.13,00,000/- from the petitioner for getting a Government Job and that, he will repay back the said amount by 30.05.2018. Even thereafter, the petitioner has not repaid back the amount. Aggrieved by the same, the petitioner gave a complaint to the respondent police on 13.06.2018 and the respondent police also issued a CSR No.495

of 2018 on 21.06.2018. In the complaint itself, the petitioner had stated that out of the total amount of Rs.13,00,000/-, the accused person had repaid back only a sum of Rs.3,50,000/- and had cheated to an extent of Rs.9,50,000/-.

4. The respondent police did not take any action on the complaint given by the petitioner and thereafter, the petitioner filed a petition under Section 156(3) of Cr.P.C., before the XIII Metropolitan Magistrate Court, Egmore (Allikulam), Chennai, seeking for a direction to the respondent police to register an FIR. This complaint has been dismissed by the XIII Metropolitan Magistrate Court, Egmore (Allikulam), Chennai, on the ground that the petitioner has not produced any proof to show that the accused person promised the petitioner to get any Government job.

5. In the considered view of this Court, the learned Magistrate ought not have gone into the issue of proof and the Magistrate ought have seen as to whether the complaint makes out a cognizable offence and should have kept in mind the guidelines given by the Hon'ble Supreme Court in Lalitha Kumari Vs. Government of Uttar Pradesh reported in 2013 (6) CTC 353. The Magistrate cannot conduct the roving enquiry while considering the application filed under Section 156(3) of Cr.P.C. Therefore, the learned Magistrate was not right in dismissing the complaint given by the petitioner.

6. This Court is convinced that there are prima facie materials against the accused person and the complaint given by the petitioner makes out a cognizable offence.

7. In view of the above, there shall be a direction to the respondent police to register an FIR based on the complaint given by the petitioner and proceeded further in accordance with law.

8. With the above direction, this Criminal Original Petition is disposed of.

-s/d-

Assistant Registrar(CCC)

*Corrected as per the order
of this Court dated 27.3.2019

Sd/-

Assistant Registrar(AR-IV)

Dated:25/04/2019

True Copy

Sub-Assistant Registrar

ub/ssr

To

1. Inspector of Police,
V-4 Rajamangalam Police Station,
Chennai - 600 099.

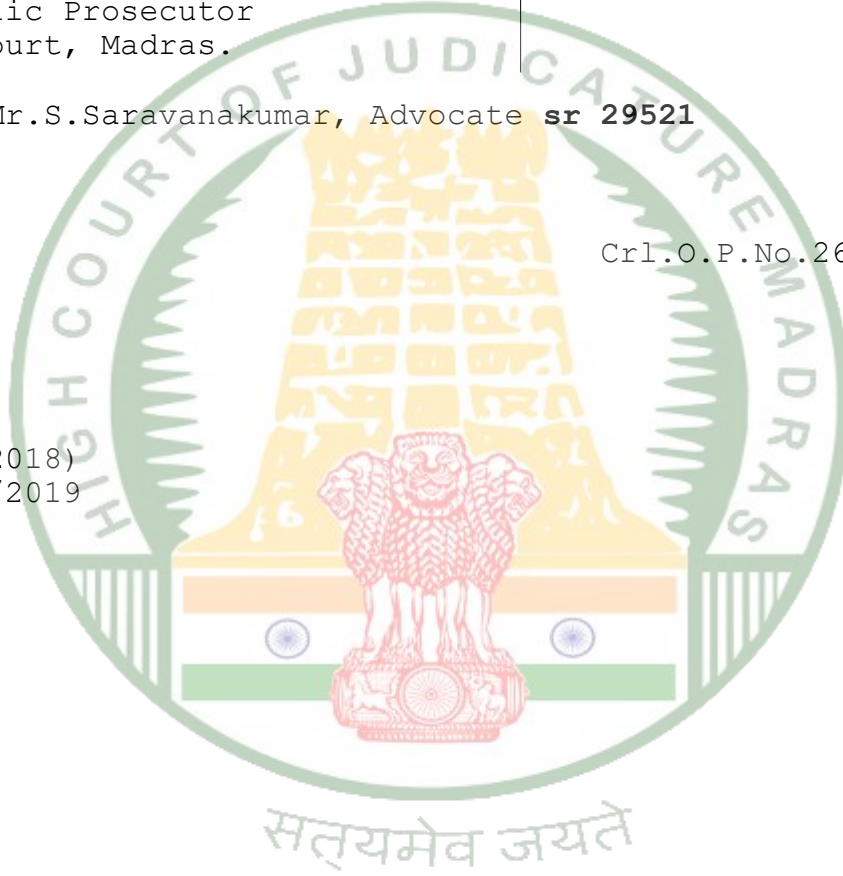
To be substituted to the
order already despatched
on 03/01/2019

2.The Public Prosecutor
High Court, Madras.

+2 CC to Mr.S.Saravanakumar, Advocate **sr 29521**

Crl.O.P.No.26943 of 2018

BS (CO)
SP(06/12/2018)
srg 25/04/2019



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