



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 09.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE **P.N.PRAKASH**
Crl.R.C. (MD)No.18 of 2018
and
Crl.M.P. (MD)No.203 of 2018

Unni : Petitioner/Petitioner
Vs.

1. Victor Genes
2. Joseph Victor : 1st and 2nd Respondents/Accused
3. The State Rep. by
The Inspector of Police,
Kaliyakavilai Police Station,
Kanyakumari Village. : 3rd Respondent/ Respondent

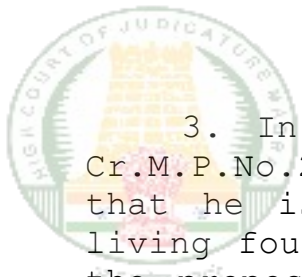
PRAYER: Criminal Revision Case is filed under Section 397 r/w 401 of the Criminal Procedure Code praying to call for the records and set aside the order made in Cr.M.P.No.2075 of 2017, dated 10.03.2017 on the file of the learned Judicial Magistrate No.1, Kuzhithurai.

For Petitioner : Mr.C.Muthusaravanan
For Respondent No.3 : Mr.M.Asokan,
Government Advocate (Crl.side)

ORDER

The petitioner filed a petition in Cr.M.P.No.2075 of 2017 before the learned Judicial Magistrate No.1, Kuzhithurai under Section 156(3) of the Code of Criminal Procedure for a direction to the police to register an FIR against Victor Genes and Joseph Victor. The said petition has been dismissed by the learned Magistrate by the impugned order dated 10.03.2017, aggrieved by which, the petitioner has filed the present revision with a delay of 54 days, which has been condoned by this Court in Crl.M.P.(MD) No.11208 of 2017.

2. In **Mrs.Priyanka Srivatsava vs. State of U.P.**, reported in **2015 (4) Scale 120**, the Supreme Court has very clearly held that a Magistrate cannot mechanically pass orders under Section 156(3) of the Code of Criminal Procedure. Similarly, in **Ramdev Food Products Pvt., Ltd., vs. State of Gujarath**, reported in **2015 (3) Scale 622**, the same view has been reiterated. In **HDFC Securities Ltd., v. State of Maharashtra [2017(1) MWN (Cr.) 1 (SC)]**, the Supreme Court has held that an order passed under Section 156(3) requiring investigation by the police cannot be said to have caused any injury of irreparable nature.



3. In the case at hand, on a reading of the complaint in Cr.M.P.No.2075 of 2017, it is seen that the petitioner has stated that he is a real estate agent; that the proposed accused are living four Kilometres away from his house and known to him; that the proposed accused had purchased a property in Nanguneri at a very low rate and thereafter, they had made into plots and got huge profit and that believing the words of the proposed accused, the petitioner intended to purchase the land and paid a sum of Rs.2,00,000/-, but, whereas, the proposed accused committed theft and thereby, cheated the petitioner. The petitioner has not even given the dates and other particulars that were required for taking appropriate action. Thus, the complaint averment does not even satisfy the judicial conscience of this Court. In such view of the matter, the order passed by the Trial Court does not suffer from any infirmity warranting interference.

4. In fine, this Criminal Revision Case is closed with liberty to the petitioner to work out his remedies in the manner known to law. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate No.1,
Kuzhithurai.
2. The Inspector of Police,
Kaliyakavilai Police Station,
Kanyakumari Village.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
4. The Record Keeper,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

SML

VB/KK/SR2/25/01/2018/2P/6C

Order made in
Cr1.R.C. (MD) No.18 of 2018
09.01.2018