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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2021

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

CRL.R.C.NO.246 OF 2018

A.Ramamurthy

... Petitioner

.Vs.

1. The Assistant Commissioner of Police,
Tambaram Range.

2. The Inspector of Police,
Tambaram Police Station,
Chennai - 600 045.

... Respondents

PRAYER:-

This Criminal Revision Case is filed under Sections 397 and 401 of Cr.P.C., against order dated 09.01.2018 in C.M.P.No.5053 of 2017, passed by the learned Judicial Magistrate, Tambaram.

For Petitioner : Mr.M.Mohamed Riyaz

For Respondents : Mr.A.Gopinath
Government Advocate (Crl.Side)

O R D E R

This Criminal Revision Case has been preferred challenging the order of the learned Judicial Magistrate, Tambaram dated 09.01.2018 passed in C.M.P.No.5053 of 2017.

2. The above order of the learned Magistrate has been filed, accepting the report submitted by the respondent police dated 21.08.2017 on a complaint forwarded to them under an order of the learned Magistrate dated 17.07.2017. The petitioner has filed the complaint before the learned Magistrate and sought a prayer under Section 156(3) Cr.P.C. The learned Magistrate was also pleased to forward the said complaint to the police for taking action on the same. The said order dated 17.07.2017 reads as under:



contemplated in Chapter XII of the Code only thereafter.''

5. On perusal of the order of the learned Magistrate, it is seen that there is a mention about a preliminary enquiry. If the Magistrate is not satisfied with the compliance report, he can very well reject the same. Once, the complaint is forwarded to the police for enquiry under the order of the Magistrate, the police has a duty to register a First Information Report and then only to proceed further. It is up to the investigation officer to file a report either or not in favour of the complainant. It depends on the materials, he could get during the investigation. It is equally so for the Court to accept or not the report so filed under Section 173(2) of Cr.P.C.,

6. But, in the case on hand, it is seen that the respondents have not attached the statement of the witnesses along with the report stating that the matter is civil in nature. Even if it is true that the matter involves civil transaction, in order to find out whether there is any criminal offence committed during the civil transaction, an elaborate enquiry may be needed. Hence only with such supporting materials, the final report can be filed to the Court. The respondent Police did not register an F.I.R., and investigate and supporting materials also not submitted to the Magistrate. Under such circumstances, the Magistrate has opted to send the complaint to the respondent Police for enquiry. So it implies that the respondent Police ought to register F.I.R., and start their enquiry only thereafter.

7. In view of the above reason, I feel that the order dated 09.01.2018 passed in C.M.P.No.5053 of 2017, by the learned Judicial Magistrate, Tambaram is liable to be set aside.

8. In the result, this Criminal Revision Case is allowed and the order passed by the learned Judicial Magistrate, Tambaram, dated 09.01.2018, in C.M.P.No.5053 of 2017 is set aside. The respondent police is directed to register the First Information Report on the complaint filed by the complainant and proceed in accordance with law.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

ssn



To

1. The Judicial Magistrate,
Tambaram.
2. The Assistant Commissioner of Police,
Tambaram Range.
3. The Inspector of Police,
Tambaram Police Station,
Chennai - 600 045.
4. The Public Prosecutor,
High Court of Madras,
Chennai.

+1cc to Mr.M.Mohamed Riyaz, Advocate, S.R.No.61406

CRL.R.C.NO.246 OF 2018

PMK(CO)
PBS/28/12/2021