

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2021

C O R A M

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.234 of 2021

S.Gopi Krishna

... Petitioner

Vs.

1.The Inspector of Police,
G-3, Kilpauk Police Station,
Kilpauk,
Chennai - 600 010.

2.Mr.Saravanan @ Shrawanth,
Proprietor,
M/s.Simha Associates
and M/s.V.Constructions,
having Office at No.46-A,
1st Floor, Halls Road,
Chennai - 600 010.

... Respondent

PRAYER: Criminal Revision Case filed under 397 r/w 401 of Cr.P.C. to set aside the order dated 16.02.2021 in Crl.M.P.No.3408 of 2021 passed by the learned II Metropolitan Magistrate, Egmore, Chennai and consequently direct the first respondent to investigate the complaint filed by the petitioner under Section 156 (3) of Cr.P.C.

For Petitioner :Mrs.Nalini Chidambaram
Senior Counsel

For Mr.N.R.R.Arun Natarajan

For Respondent : Mr.K.Mathan

Government Advocate (Crl.Side) for R-1

O R D E R

Heard the learned Senior Counsel for the petitioner and the learned Government Advocate (Criminal Side) for the first respondent-Police and perused the materials placed on record.

2. This Revision has been filed challenging the order passed by the learned II Metropolitan Magistrate, Egmore, Chennai, dated 16.02.2021, dismissing the petitioner's application in CrI.M.P.No.3408 of 2021, filed under Section 156 (3) of Cr.P.C, and for a direction to the first respondent to investigate the complaint filed by the petitioner.

3. The petitioner / defacto complainant has filed a complaint dated 08.12.2020 against the second respondent, before the first respondent-Police. Since the first respondent-Police has not registered the case and investigated the matter and also not even intimated what happened to the complaint given by the petitioner / defacto complainant, he filed a complaint dated 11.01.2021 under Section 154(3) of Cr.P.C. before the Commissioner of Police, Chennai with a request to direct the first respondent to register the FIR against the second respondent. The petitioner also filed a petition under Section 156(3) of Cr.P.C before the learned Metropolitan Magistrate, Egmore, Chennai. The learned Judge, after enquiry, dismissed the complaint, on the ground that the dispute is pure of civil in nature. Challenging the same, the petitioner is before this Court, by way of this Revision.

4. The learned Senior Counsel for the petitioner would submit that even though to some extent civil dispute is involved in the complaint filed by the petitioner, however, cognizable offence also falls and therefore, the Police or the learned Magistrate, cannot come to the conclusion that complaint filed by the petitioner pertains to civil in nature. In support of her contention, the learned Senior Counsel has cited the following Judgments:-

(i) Pranati Das Vs. State of West Bengal [2020 SCC Online Cal 132]

(ii) J.Jagdish Vs. Udhayakumar [(2020) 14 SCC 552]

It is further submitted that neither the respondent-Police investigated the matter and filed a charge sheet, nor the learned Magistrate, directed the Police to take the complaint and they have not followed the ratio laid down by the Hon'ble Supreme Court, in the above Judgments.

5. When the matter came up for hearing on 26.04.2021, this Court directed the learned Government Advocate (Criminal Side) to get instructions and today, it is represented by the learned Government Advocate (Criminal Side) that the complaint filed by the petitioner, dated 08.12.2020 was closed. But so far, the petitioner has not received any intimation from the Police regarding the closure of the complaint. It is to be noted that

once the Police Officer receives the complaint from the complainant, either he should register the case, investigate the matter and file a charge sheet, in case, the police Officer files negative report, the learned Magistrate, as soon as report received from the Police, serve notice to the complainant and if complaint files any protest petition before the learned Magistrate, the learned Magistrate can examine the same and the protest petition can be taken as a complaint and proceed further in accordance with law, whereas, in this case, the respondent-Police has not given any response to the complaint filed by the defacto complainant and when he approached before the learned Magistrate, the learned Magistrate also has not appreciated the fact, and however, dismissed the complaint filed by the petitioner.

6. As per the decision of the Hon'ble Supreme Court if any case cognizable offence is made out, it is the duty of the Court to register the case and investigate the matter and file a charge sheet. The citations referred by the learned Senior Counsel for the petitioner are squarely applicable to the present case on hand. In this case, both the respondent-Police as well as the learned Magistrate failed to consider the same.

7. In view of the above, this Court finds that there is a perversity in the order passed by the learned Metropolitan Magistrate, Egmore, Chennai and the order passed by the learned learned Metropolitan Magistrate, Egmore, Chennai is set aside and the first respondent-Police is directed to take the complaint filed by the petitioner, dated 08.12.2020, on file and investigate the matter and file a charge sheet in accordance with law, within a period of three months from the date of receipt of a copy of this order.

8. With the above direction, this Criminal Revision Case is disposed of.

Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

r n s

To

1. The II Metropolitan Magistrate, Egmore,
Chennai.

2.The Inspector of Police,
G-3, Kilpauk Police Station,
Kilpauk,
Chennai - 600 010.

3.The Public Prosecutor,
High Court, Madras.

+1cc to M/s.C.Uma, Advocate SR.No.26473

Crl.R.C.No.234 of 2021

LN(CO)
GMY(05/07/2021)



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