



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 09.12.2021

C O R A M

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl. O.P. No. 6399 of 2017
and
Crl.M.P.No.4735 of 2017

Dr. Sherlin K.Raj,
W/o. C. Charles Halan

... Petitioner

Versus

1.TAQA Neyveli Power Company Ltd.,
rep. by Mr.V.Gopal,
Plant General Manager,
Uthangal (Post), Viruthachalam Tk.,
Cuddalore Dt.

2.The Inspector of Police,
Oomangalam Police Station,
Neyveli, Cuddalore Dt.

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the complaint dated 14.03.2017 of the 1st respondent along with order passed by the Judicial Magistrate, Neyveli in unnumbered CMP dated 21.03.2017 and to quash the same.

For Petitioner : Mr.P.Paramasiva Doss

For Respondents : Mr. K.P.Ananthakrishna for R1
Mr.R.Kishore Kumar,
Govt. Advocate (Crl. Side) for R2

O R D E R

This Criminal Original Petition has been filed to quash the order passed by the learned Judicial Magistrate, Neyveli forwarding the complaint under Sec. 156(3) of Cr.P.C.

2. It is to be noted that mere forwarding the complaint is not amounting to take a cognizance of offence, it is only pre-stage of taking cognizance of offence. It is for the investigation agency to find out whether the cognizance of offence is made out or such complaint is required investigation. In such view of the matter, mere forwarding the complaint under



Sec.156(3) of Cr.P.C. to investigate into the matter by the learned Judicial Magistrate cannot be challenged and at this stage, it is nothing but premature. The above view of this Court is fortified by the decision of the Hon'ble Supreme Court in HDFC Securities Limited and others vs. State of Maharashtra and another reported in 2017 (1) Supreme Court Cases 640, wherein Hon'ble Apex Court has held in para 27 as follows :-

"27. It appears to us that the appellants approached the High Court even before the stage of issuance of process. In particular, the appellants challenged the order dated 04.01.2011 passed by the learned Magistrate under Section 156(3) Cr.P.C. The learned counsel appearing on behalf of appellants after summarising their arguments in the matter have emphasised also in the context of the fundamental rights of the appellants under the Constitution, that the order impugned has caused grave inequities to the appellants. In the circumstances, it was submitted that the order is illegal and is an abuse of the process of law. However, it appears to us that this order under Section 156(3) Cr.P.C. requiring investigation by the police, cannot be said to have caused an injury of irreparable nature which, at this stage, requires quashing of the investigation. We must keep in our mind that the stage of cognizance would arise only after the investigation report is filed before the Magistrate. Therefore, in our opinion, at this stage the High Court has correctly assessed the facts and the law in this situation and held that filing of the petitions under Art. 227 of the Constitution of India or under Section 482 Cr.P.C., at this stage, are nothing but premature. Further, in our opinion, the High Court correctly came to the conclusion that the inherent powers of the Court under Section 482 Cr.P.C. should be sparingly used."

3. In such view of the matter, this Criminal Original Petition is not maintainable and the same is liable to be dismissed. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected Criminal Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar



rpp

To

- 1.The Judicial Magistrate,
Neyveli.
- 2.The Inspector of Police,
Oomangalam Police Station,
Neyveli, Cuddalore Dt.
- 3.The Public Prosecutor,
High Court, Madras.

CrI. O.P. No. 6399 of 2017
and
CrI.M.P.No.4735 of 2017

EV (CO)
PR (27/12/2021)