



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 02.09.2021

CORAM

THE HONOURABLE MRS. JUSTICE **T.KRISHNAVALLI**

Crl.R.C(MD)No.568 of 2021

WEB COPY

P.Prakash

...Petitioner

Vs.

State of Tamil Nadu Rep. by  
The Inspector of Police,  
Cumbum South Police Station,  
Cumbum,  
Theni District.

...Respondent

**Prayer:** Criminal Revision Case filed under sections 397 and 401 of the Code of the Criminal Procedure, to call for records pertaining to the order, dated 04.01.2021 in Crl.M.P.No.3993 of 2020 on the file of the Judicial Magistrate, Uthamapalayam and set aside the same.

For Petitioner : Mr.P.Pethu Rajesh

For Respondent : Mr.RMS.Sethuraman

Counsel for State Government (Crl.side)

### **O R D E R**

This criminal revision is directed against the order passed in Crl.M.P.No.3993 of 2020 on the file of the learned Judicial Magistrate, Uthamapalayam , dated 04.01.2021.

2.It reveals from the records that the petitioner herein filed a petition in Cr.MP No.3993 of 2020 on the file of the Judicial Magistrate, Uthamapalayam under section 156(3) of Cr.P.C seeking for a direction to register FIR and investigation for the offence under sections 417, 420, 380 and 506(i) IPC. The learned Magistrate, by order, dated 04.01.2021 dismissed the said petition filed by the petitioner. Aggrieved by the same, the petitioner is before this court.

3.Heard the learned counsel appearing on either side and perused the materials available on record.

4.It is seen from the records that the petitioner herein filed the petition in Crl.MP No.3993 of 2020 under section 156(3) of Cr.P.C and 04.01.2021, the learned Judicial Magistrate without any discussion has simply dismissed the petition stating that there is no prima facie case made out as against the respondent.

5.It is the duty of the Magistrate, while considering the

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petition filed under section 156(3) Cr.P.C, to refer the complaint to the Station House Officer, for investigation and then the Investigating Officer, after due enquiry, thought fit, should register FIR and further investigate the case and file a final report before the jurisdictional Magistrate court. But in this case, the learned Magistrate has passed a non-speaking order stating that there is no prima facie case made out as against the respondent. Under these circumstances, this court is of the view that the impugned order passed by the learned Magistrate is not correct and it is liable to be set aside.

6.In the result, this criminal revision is **allowed**. The impugned order of the learned Judicial Magistrate, Uthamapalayam passed in Cr.M.P.No.3993 of 2020, dated 04.01.2021, is set aside. The case is remitted back to the trial court namely learned Judicial Magistrate, Uthamapalayam, to dispose of the Cr.M.P.No.3993 of 2020 afresh purely on merits and in accordance with law, after giving opportunity to the parties concerned, within a period of three months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Vsd

To

1.The Judicial Magistrate,  
Uthamapalayam.

2.The Inspector of Police,  
Cumbum South Police Station,  
Cumbum,  
Theni District.

+1 CC to M/s.P.PETHU RAJESH, Advocate ( SR-27944[F] dated 02/09/2021 )

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RD(24.09.2021) 2P 4C