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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.R.C.No.591 of 2022

S.Menaka

... Petitioner

Versus

1.The Deputy Commissioner of Police,
Office of the Deputy Commissioner of Police,
Ambattur,
Chennai.

2.The Assistant Commissioner of Police,
Office of the Assistant Commissioner of Police,
Ambattur,
Chennai.

3.The State Rep.by,
The Inspector of Police,
All Woman Police Station W-28,
Ambattur.

... Respondents

Criminal Revision Case filed under Section 397 read with 401 Cr.P.C, to set aside the order in C.M.P.No.248 of 2022, dated 21.02.2022 on the file of the Learned Judicial Magistrate, Ambattur, Thiruvallur District and direct and the third respondent to register a case based on the petitioner's complaint dated 15.09.2021.

For Petitioner : Mr.G.Mohana Krishnan

For Respondents: Mr.S.Vinoth Kumar,
Government Advocate (Crl.side)

O R D E R

This Criminal Revision is filed aggrieved by the order dated 21.02.2022 in C.M.P.No.248 of 2022, whereby, the Revision filed by the petitioner, to order probe into the complaint, dated 15.09.2021, under Section 156(3) of Cr.P.C, has been rejected.

2.Heard Mr.G.Mohana Krishnan, learned counsel for the petitioner and the learned Government Advocate (crl.side)



appearing for the respondent/police.

3.The learned counsel for the petitioner would submit that the reasons for rejecting the complaint as contained in paragraph No.6 of the order of the Learned Magistrate is that since the complaint has been enquired and closed, the only option available for the petitioner is to file a protest petition or to file a private complaint under Section 200 of the Code of Criminal Procedure and a Petition under Section 156 (3) is not maintainable.

4.This according to the learned counsel for the petitioner is erroneous, in as much as, it was not a closure report, after investigating the case. As a matter of fact, the complaint given by the petitioner was refused to be registered. Therefore, the petitioner has every right to move the Learned Magistrate by filing an application under Section 156(3) of Cr.P.C.

5.Per contra, the Learned Government Advocate (crl.side) appearing for the respondents would submit that the petitioner had earlier come up with CrI.O.P.No.26200 of 2019 with a self same direction to registered the complaint, which was disposed off and the said order. It is clearly stated that the petitioner should challenge the closure report and seek further course of action and accordingly, based on the above observation of this Court, the Learned Magistrate is right in rejecting the Criminal miscellaneous petition is filed by the petitioner.

6.I have considered the rival submissions made on either side and perused the material record of this case.

7.On perusal, it is clear that the petitioner lodged a complaint and no First Information Report was registered on the said complaint. On a preliminary enquiry by the Investigation Officer, he had refused to register the First Information Report. Upon such refusal, as per Section 154 of the Code of Criminal Procedure, it would be clear that it is open for the petitioner to approach the higher officials, and thereafter, approach the Learned Magistrate either under Section 156(3) or under Section 190 read with under Section 200 of the Code of Criminal Procedure, by way of a private complaint, and there is no question of filing any protest petition in the instant case.

8.Therefore, I am of the view that the reasoning of the Learned Magistrate is erroneous and therefore this revision petition is ordered on the following terms:-

(i) The order of the Learned Magistrate, Ambattur dated 21.02.2022 in CrI.M.P.No.248 of 2022 is set aside.



(ii) The Learned Magistrate is directed to consider the Crl.M.P.No.248 of 2022 on its own merits, holding that it is maintainable and decide the matter in accordance with the law.

(iii) There shall be no order as to costs.

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Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

klt

To

- 1.The Judicial Magistrate,
Ambattur, Thiruvallur District.
- 2.The Deputy Commissioner of Police,
O/O The Deputy Commissioner of Police,
Ambattur, Chennai.
- 3.The Assistant Commissioner of Police,
O/O The Assistant Commissioner of Police,
Ambattur, Chennai.
4. The Inspector of Police,
W-8, All Woman Police Station,
Ambattur, Chennai.
- 5.The Public Prosecutor,
High Court of Madras.

+1cc to Mr.G.Mohanakrishnan, Advocate, S.R.No.32116

Crl.R.C.No.591 of 2022

NRJK(CO)
SB(16/06/2022)