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CrI.R.C.No.815 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

CrI.R.C.No.815 of 2022

M.Sivajothi,
S/o.Late A.Mageswaran

... Petitioner

Versus

1.The Inspector of Police,
V-7 Police Station,
Nolambur,
Chennai – 39.

2.Divya
3.Arumugapandy
4.S.Chandra
5.S.Muthuraj
6.A.Satya
7.Baradhan
8.A.Tamil Raj

... Respondents

Criminal Revision Case filed under Section 397 read with 401(2) Cr.P.C, praying to call for the records in connection with the order dated 05.04.2022 in C.M.P.No.944 of 2022 passed by the learned Judicial Magistrate, Ambattur and set aside the same as illegal and improper.

For Petitioner : Mr.S.Kingston Jerold
For R1 : Mr.S.Vinoth Kumar,
Government Advocate (CrI.Side)



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ORDER

This Revision is filed aggrieved by the order of the learned Judicial Magistrate, Ambattur, dated 05.04.2022 made in C.M.P.No.944 of 2022, in and by which, the prayer of the petitioner seeking to refer his complaint dated 16.02.2019 for investigation of the first respondent/police has been rejected.

2. The learned Counsel for the petitioner would submit that, the learned Judicial Magistrate, Ambattur has erroneously rejected the prayer of the petitioner on the ground that there was already a closure report on the complaint and the petitioner has to file a protest petition against the closure report of the complaint dated 16.02.2019.

3. According to the learned Counsel for the petitioner, there was no FIR registered earlier and it is a case, where the Investigating Officer refused to register the complaint. Therefore, they have followed the procedure under Section 154 Cr.P.C. by giving a complaint to the higher official and thereafter, the petitioner filed a instant petition under Section 156(3) Cr.P.C., which is in accordance with law and the learned Judicial Magistrate erred in rejecting the said application with an observation that the petitioner has to file a protest



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petition. In this case, there is no closure report filed before the Court and

therefore, there is no question of filing any protest petition.

4. On the other hand, the learned Government Advocate (Crl.Side) appearing for the first respondent/police would submit that, though there is force in the submissions of the learned Counsel for the petitioner on the merits of the complaint, the complaint is of the year 2019 and it is between the husband and wife and it appears to be Civil in nature.

5. I have considered the rival submissions made on behalf of both sides and perused the material records on this case.

6. As far as the impugned order in this revision is concerned, the same rejects the application of the petitioner only on the ground that he has to file protest petition, which is not legally sustainable as submitted by the learned Counsel, which is recorded above.

7. As far as the objections raised by the learned Government Advocate is concerned, the same can be considered by the learned Judicial Magistrate by dealing the petition on merits.



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8. In that view of the matter, this revision is allowed on the following

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(i) The order dated 05.04.2022 in C.M.P.No.944 of 2022 passed by the learned Judicial Magistrate, Ambattur is set aside;

(ii) The C.M.P.No.944 of 2022 is remanded back to the file of the learned Judicial Magistrate, Ambattur for considering the same on merits and in accordance with law.

29.06.2022

Index : yes/no

Speaking/Non-speaking order

sp

To

1.The Judicial Magistrate, Ambattur.

2.The The Inspector of Police, V-7 Police Station, Nolambur, Chennai – 39.

3.The Public Prosecutor, High Court of Madras.



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D.BHARATHA CHAKRAVARTHY, J.,

sp

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