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Crl.RC.No.1371 of 2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2022

Coram:

THE HONOURABLE **MR. JUSTICE P.VELMURUGAN**

Criminal Revision Case No.1371 of 2022

Rajan

... Petitioner

Vs.

1. State rep. by  
The Commissioner of Police  
E.V.K.Sampath Road,  
Veppery  
Chennai – 600 007

2. Inspector of Police  
R.1, Mambalam Police Station  
Metli Road  
T.Nagar,  
Chennai – 600 017

... Respondent

**Prayer:** Criminal Revision filed under Section 397 and 401 of Criminal Procedure Code, praying to set aside the order passed in Crl.M.P.No.3663 of 2022 dated 31.03.2022 on the file of the 17<sup>th</sup> Metropolitan Magistrate, Saidapet, Chennai.

For Petitioner : Mr.V.Elangovan

For Respondents : Mr.S.Sugendran  
Additional Public Prosecutor

**ORDER**

This Criminal Revision Case has been filed seeking to set aside the order passed in CrI.M.P.No.3663 of 2022 dated 31.03.2022 on the file of the 17<sup>th</sup> Metropolitan Magistrate, Saidapet, Chennai.

2. The petitioner is doing import and export business in the name and style of M/s.Sankar Beverages. He had given a complaint before the 2<sup>nd</sup> respondent police on 02.03.2022 against one Karuppaiya Madhavan for causing wrongful loss to the petitioner's business and also threatening the petitioner with dire consequences. However, since they did not take any action, he filed a private complaint before the 17<sup>th</sup> Metropolitan Magistrate, Saidapet, Chennai, in CrI.M.P.No.3663 of 2022 under Section 156(3) Cr.P.C. to direct the 2<sup>nd</sup> respondent police to register a case on the complaint given by the petitioner and to investigate the matter, whereas the learned Magistrate dismissed the same by order dated 31.03.2022 without even recording the sworn statement of the petitioner and the supportive witness. Aggrieved over the said order, the petitioner has filed the present revision before this Court.



3. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents police and perused the materials available on record.

4. The main grievance of the petitioner is that the learned Magistrate has disposed of the petition on the same day itself, without even examining the petitioner. It is seen that in the grounds of revision, in paragraph (d), the learned counsel for the petitioner while quoting the earlier order passed by this Court in CrI.O.P.No.4341 & 4752 of 2021 dated 02.08.2022, has also extracted the directions imposed by this Court in the said order as follows;

*3. In the case on hand, the learned Magistrate without even recording any statement of the petitioners who are being the defacto complainants and without recording any witnesses supporting the case of the petitioner, gone through the merits of the complaints and dismissed the petitions as if they were filed under Section 203 of Cr.P.C. Therefore, the learned Magistrate without following the procedure laid down in Cr.P.C. and mechanically dismissed the petitions filed by the*



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*petitioners seeking direction under Section 156(3) of Cr.P.C.*

*4. In view of the above, the impugned orders dated 10.02.2020 in Crl.MP.Nos.459 & 458 of 2020 on the file of the Metropolitan Magistrate for CCB & CCB & CBCID Cases, Egmore, Chennai are set aside and the same are remanded back to trial Court for fresh consideration. It is made clear that the Magistrate is directed either to direct the investigation officer to investigate and filed report or to conduct enquiry by recording statement of the petitioners, supporting witnesses, if any and pass appropriate orders.*

5. A perusal of the impugned order shows that the learned Magistrate has observed that even in the year 2018, regarding money dispute, the same petitioner had given a complaint before the Commissioner, Central Crime Branch, Team I, against the said Karuppaiya Madhavan and after enquiry, the same was closed as Civil in Nature. However, he had not filed any petition objecting the same and instead of filing recovery suit, the petitioner has filed the complaint before the Magistrate only to give a criminal colour to his complaint. Therefore, there is no need for a direction to the police to



register the case and investigate the matter.

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6. When a complaint is filed before the Magistrate under Section 156(3) Cr.P.C., if the Magistrate finds from the averments in the complaint that it does not disclose any commission of offence and it is purely civil in nature, the the Magistrate has got every power to reject the complaint.

7. In this case, a reading of the complaint given by the petitioner, does not disclose any commission of offence which is necessary for the police to investigate the matter and to find out the offence. The averments made in the complaint are civil in nature and therefore, the learned Magistrate rightly observed that in order to avoid the payment of Court fees to the Civil Court and also to drag on the accused to police and Court, has falsely invoked the Jurisdiction of the Magistrate under Section 156(3) Cr.P.C.

8. Under these circumstances, this Court does not find any perversity, illegality or infirmity in the order passed by the learned Magistrate. Therefore, there is no merit in the revision and the revision is liable to be dismissed.



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9. Accordingly, this Criminal Revision Case is dismissed.

29.09.2022

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To

1. The 17<sup>th</sup> Metropolitan Magistrate, Saidapet, Chennai.
2. The Commissioner of Police  
E.V.K.Sampath Road,  
Veppery  
Chennai – 600 007
3. Inspector of Police  
R.1, Mambalam Police Station  
Metli Road  
T.Nagar,  
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4. The Public Prosecutor  
High Court of Madras



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**P.VELMURUGAN,J.**

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