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Crl.R.C.No.1459 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.12.2022

CORAM :

THE HONOURABLE MR. JUSTICE **V.SIVAGNANAM**

Crl.R.C.No.1459 of 2022

Ganesan

.. Petitioner

Vs.

1.The Inspector of Police,
Namakkal Police Station,
Namakkal.

2.T.Bastion Pio

3.Manavazhagan

..Respondents

PRAYER : Criminal Revision Case has been filed under sections 397 read with 401 of Criminal Procedure Code to set aside the order dated 21.06.2022 made in Crl.M.P.No.880 of 2022, on the file of the learned Judicial Magistrate-I, Namakkal.

For Petitioner : Mr.J.Jayan

For R1 : Mr.V.V.Meganathan
Government Advocate (Crl.Side)

For R2 & R3 : Mr.R.Sankarasubbu



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ORDER

This Criminal Revision Case has been filed against the impugned order dated 21.06.2022 passed by the learned Judicial Magistrate-I, Namakkal, in Crl.M.P.No.880 of 2022.

2. The learned counsel for the revision petitioner submitted that the petitioner filed a complaint before the learned Judicial Magistrate-I, Namakkal in Crl.M.P.No.880 of 2022 against the respondents 2 and 3 for the offence under Sections 406, 417 & 420 I.P.C., and requested the Magistrate to forward the complaint under Section 156(3) Cr.P.C., to the respondent police to register a case. The learned Magistrate after considering the complaint, observed that the transaction between the petitioner and the accused persons took place in Chennai during the year 2020. The petitioner has preferred two complaints one before the Mambalam Police Station Chennai and another before the Superintendent of Police, Namakkal. But, the petitioner has not enclosed the copy of the complaints in the private complaint filed before the learned Magistrate. The Court below dismissed the private



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complaint on the ground that no *prima facie* reason found in the complaint to forward the same for registration. Hence, the impugned order is now put to a challenge.

3. Heard the learned Government Advocate (Crl.Side) for the 1st respondent and the learned counsel for the respondents 2 and 3 and perused the records carefully.

4. On a perusal of records, the fact reveals that the petitioner filed a private complaint before the learned Judicial Magistrate-I, Namakkal. In the complaint, it is alleged that he has paid a total sum of Rs.3,95,350/- to the accused 1 and 2 on the assurance of securing M.B.B.S. seat to his son in European country on various dates i.e. of Rs.25,000/- on 16.08.2019, Rs.50,000/- on 29.08.2019 and Rs.35,000/- on 28.09.2019. But the respondents 1 and 2 have not kept their promise and thereafter only the petitioner had realised that he has been cheated. Then he had given a complaint before the Deputy Superintendent of Police, Namakkal. Thereafter, he gave a complaint to the Mambalam Police Station, Chennai. The complaint has been registered in



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C.S.R.No.297/2020 and on enquiry, he came to know that the police did not take any action. Thereafter, he filed a petition in Crl.O.P.No.7121 of 2021 before this Court. This Court vide order dated 16.04.2021 directed the petitioner to file a private complaint before the Magistrate Court. Since the police have not taken any action, he filed a private complaint before the Magistrate. On considering the complaint, the learned Magistrate did not find any *prima facie* in the case to forward the same as the petitioner has given the complaint belatedly i.e., after two years. Hence, the Magistrate, rightly rejected his complaint.

5. I find no irregularity or illegality in the order passed by the learned Magistrate. I find no merit in the Criminal Revision Case and the same is liable to be dismissed.

6. At this juncture, the learned counsel for the petitioner contended that he has failed to file the affidavits along with the private complaint. Therefore, liberty may be given to him to file a fresh complaint before the Magistrate Court.



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7. On considering the request of the petitioner's counsel and also there is no ground to interfere with the impugned order passed by the learned Judicial Magistrate, this ***Criminal Revision Case is dismissed*** with liberty to the petitioner to file a fresh complaint with the required particulars before the Judicial Magistrate. On receiving the same, the learned Judicial Magistrate-I, Namakkal is directed to consider and pass appropriate orders on merits and in accordance with law.

15.12.2022

Index: Yes/No
rpl

To

1. The Inspector of Police,
Namakkal Police Station,
Namakkal.

2. The Judicial Magistrate-I, Namakkal.

3. The Public Prosecutor,
High Court of Madras,
Chennai-104.



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V.SIVAGNANAM, J.

rpl

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