



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.NO.24426 OF 2018

AND

CRL.M.P.NO.13874 OF 2018

K.Ilayaraja,
Sub Inspector of Police,
E1, Police Station,
Mylapore,
Chennai - 600 004.

... Petitioner

Versus

1. The State rep by its,
The Commissioner of Police,
Vepery, Chennai.
2. The Inspector of Police,
E-1 Police Station,
Mylapore Police Station,
Mylapore, Chennai.
3. Udayakumar
4. S.Swaminathan @ Raja

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records connected to the Crl.M.P.No. not known of 2016 on the file of the learned Metropolitan Magistrate No.XVIII, at Saidapet, Chennai, order dated 02.02.2017 is illegal set aside the same by following this Criminal Original Petition.

For Petitioner	:	Mr.Rajendra Prasad
For R1 & R2	:	Mr.A.Damodaran, Additional Public Prosecutor
For R4	:	Mr.R.Karthick



ORDER

This Criminal Original Petition has been filed to set aside the order, dated 02.02.2017 in CrI.M.P.No. not known passed by the learned XVIII Metropolitan Magistrate, Saidapet, Chennai.

2.The gist of the case is that for urgent family need, the 3rd respondent borrowed a sum of Rs.1,00,000/- from the 4th respondent and promised to return back the money with 5% interest and also he gave post dated cheque drawn on Indian Overseas Bank, Mylapore Branch. On the contrary, the 3rd respondent failed to return back the money as promised. Suppressing the same, the 3rd respondent lodged a complaint to the 1st respondent on 23.03.2016 alleging that on 18.03.2014, the 3rd respondent took loan of Rs.1,00,000/- for family need @ 5% interest and he was regularly paying interest of Rs.5,000/- per month for 18 months without any due. On the 19th month, i.e., September 2015, he paid Rs.20,000/- to the 4th respondent in presence of one Balaji. Thereafter, the 3rd respondent lost his job and was unable to pay the interest in time and the same was informed to the 4th respondent. After losing the job, the 3rd respondent was driving private auto. During that time, the 4th respondent constantly harassed the 3rd respondent by using muscle men to make the payment. Further, the 4th respondent forcibly took the blank cheque signed by his wife, drawn on Bank of India, Mylapore Branch, Chennai and threatened that the 3rd respondent and his entire family members would be done away. On the complaint of the 3rd respondent, C.S.R.No.350 of 2016 was assigned, enquiry was conducted. During enquiry, the 4th respondent appeared, at that time, a compromise was arrived between the 3rd and 4th respondents and thereby, the 4th respondent returned back the cheque to the 3rd respondent and gave a letter to the petitioner that he will not disturb the 3rd respondent and his family. Contrary to the same, the 4th respondent lodged a complaint to the Commissioner of Police, Chennai on 19.06.2016 as though the petitioner forced him to handover the cheque to the 3rd respondent. This complaint was assigned in C.No.2549/COP/Visitors/CCB/2016, after completion of enquiry by the petitioner, the complaint of the 4th respondent was closed on 07.07.2016.

3.According to the 4th respondent, without taking action, his complaint was closed by the petitioner on 07.07.2016. Hence, he filed a petition under Section 156(3) Cr.P.C., which was forwarded to the petitioner on 02.02.2017 to register FIR and investigate the case, against which the petitioner is before this Court.



4. The learned counsel for the petitioner submitted that the 3rd respondent lodged a complaint against the 4th respondent on the above said facts on 23.03.2016 and C.S.R.No.360 of 2016 was assigned on 24.03.2016. Thereafter, the 3rd and 4th respondent were called for enquiry, the complaint was in nature of money dispute. The specific complaint of the 3rd respondent is that the 4th respondent was charging exorbitant interest for the amount borrowed from him. Both the 3rd and 4th respondents appeared for enquiry and the dispute was resolved between them. The 4th respondent received the balance amount to be paid by the 3rd respondent and returned back the cheque of the 3rd respondent's wife and the complaint was closed based on the consent letters given by them. Suppressing these facts, the 4th respondent lodged a false complaint to the Commissioner of Police, Chennai on 19.06.2016 and the same was forwarded to the Inspector of Police in C.No.2549/COP/Visitors/CCB/2016, who conducted enquiry. During enquiry, the petitioner finding that the complaint of the 4th respondent is with exaggeration far from truth, closed the complaint on 07.07.2016. Thereafter, the 4th respondent lodged a complaint to the Human Rights Commission, Chennai on 15.07.2016 as though the petitioner took no action. Again, he filed petition under Section 156(3) Cr.P.C., before the learned XVIII Metropolitan Magistrate, Saidapet, Chennai. The learned Magistrate forwarded the complaint under Section 156 (3) Cr.P.C., and directed the petitioner to register FIR and investigate the case. The learned XVIII Metropolitan Magistrate, Saidapet Chennai was not aware of the entire facts of the case. Had the Magistrate informed about the above facts, the order under Section 156(3) Cr.P.C., dated 02.02.2017 would not have been passed and hence, he prayed for setting aside the same.

5. The learned Additional Public Prosecutor appearing for the respondents 1 and 2 submitted that on the complaint of the 3rd respondent dated 23.03.2016, an enquiry was conducted by the petitioner based on the materials and documents produced. During enquiry, the petitioner following the procedure adopted in the case of money dispute, civil dispute and matrimonial dispute, no interfered in the issues between the respondents 3 and 4 and both of them independently agreed for a compromise and they have given an undertaking letter to that effect. Suppressing the same, the 4th respondent lodged a complaint with the Commissioner of Police, Chennai on 19.06.2016 and the same was forwarded to the petitioner. The petitioner finding that the complaint was with exaggeration, closed the same on 07.07.2016. He further submitted that the registration of the case as per the order of the learned XVIII Metropolitan Magistrate, Saidapet, Chennai dated 02.02.2017 would serve no purpose, on the other hand, it would create adverse effect on



the honest officers dealing the cases sincerely. Hence, appropriate order to be passed by this Court in this matter.

6.The learned counsel for the 4th respondent submitted that the 4th respondent is not aware about the enquiry conducted by the petitioner and closure of the complaint on 07.07.2016. The 4th respondent's submission is that after orders passed by the learned XVIII Metropolitan Magistrate, Saidapet, Chennai under Section 156(3) Cr.P.C, the petitioner has no other option, except to register a case and proceed with the investigation.

7.This Court considered the rival submissions and perused the materials available on record.

8.This Court, without going into the merits of the case, reminds the Police officials that the orders once under Section 156(3) Cr.P.C passed by the Magistrate, the Station House Officer to register an FIR and proceed with the investigation, in accordance with law. It is not necessary, in all cases, registration of FIR definitely to culminate into charge sheet. The final report can be both negative or positive one.

9.In view of the above, this Court directs the petitioner to register the FIR on the complaint of the 4th respondent and proceed with the investigation, in accordance with law following the order, dated 02.02.2017 passed by the learned XVIII Metropolitan Magistrate, Saidapet, Chennai.

10.The order, dated 02.02.2017 passed by the learned XVIII Metropolitan Magistrate, Saidapet, Chennai is confirmed.

11.With the above direction, this Criminal Original Petition is disposed of. Consequently, the connected Criminal Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

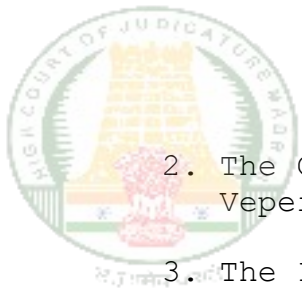
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Sub Assistant Registrar

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To

1. The XVIII Metropolitan Magistrate Court,
Saidapet, Chennai.



2. The Commissioner of Police,
Vepery, Chennai.

3. The Inspector of Police,
E-1 Police Station,
Mylapore Police Station,
Mylapore, Chennai.

4. The Public Prosecutor,
High Court, Madras.

CRL.O.P.No.24426 of 2018

SJ(CO)
RLP(11/05/2022)