



Crl.O.P.(MD) No.11515 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 29.06.2022

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRL.O.P (MD) No.11515 of 2022

S.Arul Arockiam

... Petitioner

Vs

1.The Superintendent of Police,
Dindigul District,
Dindigul.

2.The Inspector of Police,
District Crime Branch Police Station,
Dindigul District,
Dindigul.

3.Vimala Arockiyamary

4.Balaveeran

5.Jaithoonbeevi

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to direct the second respondent herein to implement the order passed by the learned Judicial Magistrate No.2, Dindigul, in Crl.M.P.No. 4824 of 2022, dated 27.03.2022.

For Petitioner : Mr.S.Sarvagan Prabhu

For Respondents : Mr.R.Suresh Kumar

1 and 2

Government Advocate (Crl. Side)



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ORDER

This Criminal Original Petition has been filed to direct the second respondent herein to implement the order passed by the learned Judicial Magistrate No.2, Dindigul, in Crl.M.P.No.4824 of 2022, dated 27.03.2022.

2.The learned counsel appearing for the petitioner submitted that in the year 2019, the respondents 3 to 5 has approached the petitioner to purchase a property situated at Thottanoothu Village, Dindigul East Taluk, in Survey No.828/2B measuring about 17751 sq. Ft. for a total consideration of Rs.7,00,000/-. On 22.02.2019, the petitioner has paid advance amount of Rs.1,00,000/- to the respondents 3 to 5. Thereafter, the petitioner has entered into a sale agreement with one Mary Kamalam and deposited a sum of Rs.6,90,322/- in the Bank Account No. HL6112283794 before the Indian Bank, Main Branch, Dindigul. Whereas, the bank officials informed that the original document pertaining to the property received by the respondents 3 to 5. Thereafter, the petitioner came to know that the respondents 3 to 5 have joined together entered into a conspiracy



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and cheated him. Hence, the petitioner gave a complaint before the second respondent. Since no action has been taken, the petitioner has filed a petition under Section 156(3) of Cr.P.C. before the learned Judicial Magistrate No.2, Dindigul in Crl.M.P.No.4824 of 2022 and the same was forwarded to second respondent to register a case. Till now the second respondent police has not taken any action. He further submitted that it is a power of the police that the respondent police has to register an FIR and conduct investigation and file final orders. On investigation if no case is made out, he can close the FIR by filing closure report and the guidelines issued by the Honourable Supreme Court in the case of ***Lalitha Kumari Vs. Govt. of UP AIR 2012 SC 1515***. Hence, the present petition has been filed.

3.The learned Government Advocate (Crl. Side) appearing for the respondents Police 1 and 2 submitted that as per the direction given by the learned Judicial Magistrate No.2, Dindigul, the second respondent police has registered a case and conducted enquiry and it was found that there is no proof for paying of amount to the respondents 3 to 5. The alleged amount has been received by one Mary Kamalam and now she died. The



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respondents 3 to 5 have not received any amount from the petitioner and hence, the case has been closed. The same is recorded.

4. On perusal of the materials available on records, it is seen that the petitioner has entered into a sale agreement with one Mary Kamalam and deposited a sum of Rs.6,90,322/- in the Bank Account No. HL6112283794 before the Indian Bank, Main Branch, Dindigul. Whereas, the bank officials informed that the original document pertaining to the property received by the respondents 3 to 5. Since the second respondent police has not registered the case, the petitioner has filed a petition under Section 156(3) of Cr.P.C. before the learned Judicial Magistrate No.2, Dindigul in Crl.M.P.No.4824 of 2022 and the same was forwarded to second respondent to register the case and the second respondent has registered the case and conducted enquiry. In the enquiry, it is found that there is no proof for receiving the said amount by the respondents 3 to 5 and hence, the second respondent closed the complaint. The decision of the Honourable Supreme Court in the case of ***Lalitha Kumari Vs. Govt. of UP AIR 2012 SC 1515*** culled out five exceptions for registering the case immediately one such exception is that if there is any case of civil in nature, the police do not



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register the case immediately, they conduct preliminary enquiry and find out whether any criminal offence is made out. Therefore, this Court find no error for not registering the case by the respondent police immediately after enquiry.

5.Recording the same, this Criminal Original Petition is closed.

29.06.2022

Internet:Yes./No

Index:Yes/no

vsg

To

- 1.The Superintendent of Police,
Dindigul District,
Dindigul.
- 2.The Inspector of Police,
District Crime Branch Police Station,
Dindigul District,
Dindigul.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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V.SIVAGNANAM, J.

vsg

ORDER IN
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