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Crl.O.P.No.3619 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

CRL.O.P.No.3619 of 2021 and  
Crl.MP.Nos.2135 & 2137 of 2021

Uma Maheshwari

... Petitioner

Vs.

R.Ruksana Begum

... Respondent

**PRAYER:** Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to call for the records relating to CC.No.1128 of 2020 on the file of the XIII Metropolitan Magistrate, Egmore, Chennai and to quash the same.

For Petitioner : Mr.C.Maniprabhu

For Respondent : No appearance

**ORDER**

This criminal original petition has been filed to quash the private complaint lodged by the respondent in CC.No.1128 of 2020 on the file of the XIII Metropolitan Magistrate, Egmore, Chennai.



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2. The petitioner is working as Inspector of Police. While she was in charge of Thirumangalam All Women Police Station, W8, Chennai as Inspector of Police, the respondent lodged complaint on 30.08.2020. On receipt of the same, the petitioner made preliminary enquiry and sought for legal opinion from the Assistant Public Prosecutor on 31.08.2020. While pending opinion, the respondent filed private complaint before the Judicial Magistrate seeking direction under Section 156(3) of Cr.P.C. The same was ordered and as per the order, the petitioner registered FIR in Crime No.17 of 2020 on 01.10.2020 as against the accused for the offences under Sections 354, 354B, 354C, 376 & 509 of IPC and Section 4 of Tamilnadu Prohibition of Women Harassment Act. The petitioner thereafter handed over the entire investigation to another Inspector of Police who was in charge on 15.10.2020. Now the respondent filed private complaint for the offence punishable under Section 166A of IPC alleging that the petitioner failed to register FIR on the complaint lodged by the respondent herein.

3. Heard, the learned counsel appearing for the petitioner. Though notice was served on the respondent, the respondent failed to appear before this Court either in person or through pleader.



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4. In fact, even before the trial court, the respondent did not appear

for the past several hearings. It is relevant to extract provision under Section 166A of IPC hereunder:

*Whoever, being a public servant,-*

*(a) knowingly disobeys any direction of the law which prohibits him from requiring the attendance at any place of any person for the purpose of investigation into an offence or any other matter, or*

*(b) knowingly disobeys, to the prejudice of any person, any other direction of the law regulating the manner in which he shall conduct such investigation, or*

*(c) fails to record any information given to him under sub-section (1) of section 154 of the Code of Criminal Procedure, 1973 (2 of 1974), in relation to cognizable offence punishable under section 326A, section 326B, section 354, section 354B, section 370, section 370A, section 376, section 376A, 2[section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB], section 376E or section 509,*

*shall be punished with rigorous imprisonment for a term which shall not be less than six months but which may extend to two years, and shall also be liable to fine.*



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5. Thus, it is clear that failure to record any information relating to any of the offences enumerated in the said offence would make out an offence. Section 154 of Cr.P.C. mandates that any information given orally it shall be reduced into writing and to maintain a record. If any written information was given it shall be entered in the book called 'general diary'. However, the petitioner can hold preliminary enquiry on receipt of the complaint. The object of provision under Section 166A of IPC is to make it punishable in the act of the Public Servant for failure to record any information so as to allow to disappear in the air. In fact, on receipt of the complaint from the respondent, the petitioner acknowledged the same and issued CSR.No.231 of 2020. Therefore, there was no failure on the part of the petitioner to record information. Subsequently, she also conducted preliminary enquiry. Therefore, no offence is made out under Section 166A of the IPC against the petitioner. Hence, the private complaint lodged by the respondent cannot be sustained and it is liable to be quashed.

6. Accordingly, the entire proceedings in CC.No.1128 of 2020 on the file of the XIII Metropolitan Magistrate, Egmore, Chennai is quashed and this



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criminal original petition is allowed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

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Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order  
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**G.K.ILANTHIRAIYAN, J.**

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To

The XIII Metropolitan Magistrate,  
Egmore, Chennai

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