



W.P.No.3567 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

W.P.No.3567 of 2023

M.Maheen

... Petitioner

Vs

- 1.The Principal Secretary to Government,
Home Department, Government of Tamil Nadu,
Fort St.George, Chennai – 600 009.
- 2.The Government of Tamil Nadu,
Rep by Additional Director General of Police,
Economic Offences Wing-II,
SIDCO Old Garments Complex,
Tiru-Vi-Ka-Nagar, Guindy,
Chennai – 600 032.
- 3.The Deputy Superintendent of Police,
Economic Offences Wing – II,
Head Quarters, IInd Floor,
Police Training College,
Ashok Nagar, Chennai – 600 083.
- 4.M/s.Integrated Finance Company Ltd.,
Rep. by its Authorized Signatory Mrs.A.Hema Jothi,
having its Regd.Office at No.10,
R-Block, Second Floor, Prem Nagar Colony,
South Boag Road, T.Nagar,
Chennai – 600017.

... Respondents



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PRAYER: Writ Petition is filed under Article 226 of Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, to call for the records of the 3rd respondent's impugned undated notice issued under Section 160 & 91 of Cr.P.C. in the matter of EOW – II – Non – Payment of dues to the 4th respondent in EOW Crime No.5/2012 under Sections 420, 120(B) IPC & Sec.5 of TNPID Act, 1997 and quash the same as devoid of merits and consequentially to drop the action against the petitioner as the claim in Judgment in O.S.No.5241/2001 dated 27.08.2008 on the file of the Chennai City Civil Court, 7th Additional Judge is barred Under Article 136 of the Limitation Act and Order in C.C.No.1153/2001 on the file of the Judicial First Class Magistrate – III, Thiruvananthapuram dated 06.06.2005 by considering his representation dated 17.01.2023, within the period as stipulated by this Honourable Court.

For Petitioner : Mr.D.Nellaiappan

For Respondents : Mr.S.Santhosh

Government Advocate (Crl.Side)

ORDER

The Writ Petition has been filed to call for the records of the 3rd respondent's impugned undated notice issued under Section 160 & 91 of Cr.P.C. in the matter of EOW – II – Non – Payment of dues to the 4th respondent in EOW Crime No.5 of 2012 under Sections 420, 120(B) IPC & Sec.5 of TNPID Act, 1997 and to quash the same and to drop the action



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against the petitioner as the claim in Judgment in O.S.No.5241 of 2001 dated 27.08.2008 on the file of the Chennai City Civil Court, 7th Additional Judge is barred Under Article 136 of the Limitation Act and Order in C.C.No.1153 of 2001 on the file of the Judicial First Class Magistrate – III, Thiruvananthapuram dated 06.06.2005 by considering his representation dated 17.01.2023.

2. Learned counsel for the petitioner submitted that petitioner availed loan facility from the 4th respondent for purchasing Mitsubishi van in 1997. Thereafter, sold the same to one Sasi in 1999. It is his further submission that 4th respondent instituted a case in C.C.No.1153 of 2001 on the file of Judicial First Class Magistrate – III, Thiruvananthapuram. Later, the complainant himself submitted before the learned Magistrate that the complaint has no evidence for the reason that there is a decision of the Hon'ble Supreme Court against the complaint. That complaint came to be dismissed on the representation of the complainant that the complaint may be dismissed.

3. The 4th respondent also filed a suit in O.S.No.5241 of 2001 against the petitioner and one Abdul Nasar for recovery of Rs.6,83,548.32/- on the file of the learned 7th Additional Judge, City Civil Court, George Town,



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Chennai. This case came to be decreed on 27.08.2008. This decree cannot be executed for the reason that it is barred by limitation. When that be the case, sending of notice under Sections 160 & 91 of Cr.P.C. for the appearance of the petitioner in connection with the role of loan for the purchase of Mitsubishi van is not appropriate and the petitioner is unnecessarily harassed.

3. Learned Government Advocate (Crl.side) appearing for R1 to R3 submitted that, on the basis of the complaint given by one Sita, First Information Report in Crime No.5 of 2012 for the offence under Sections 420 & 120(B) of IPC and Section 5 of TNPID Act, 1997 is pending against the 4th respondent and others. The petitioner is not an named accused in this case. The petitioner was summoned only for the reason that he obtained a loan and not repaid. It is for the petitioner to appear for the enquiry before the enquiry Officer and state his case that, claim is barred by limitation.

4. In light of the submissions made by the learned counsel appearing for the parties and in the facts and circumstances of the case, this Court directs the petitioner to appear before 3rd respondent/the Deputy Superintendent of Police, Economic Offences Wing – II, Chennai for enquiry. The Deputy Superintendent of Police, Economic Offences Wing –



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II, Chennai is directed to follow the procedure established by law during the
conduct of enquiry.

5. Accordingly, this Writ Petition is disposed of. No costs.

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Index : Yes/No

Internet: Yes/No

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To

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4. The Public Prosecutor,
High Court of Madras.



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G.CHANDRASEKHARAN, J.

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