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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2023

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.13074 of 2023

and

WMP No.18911 of 2023

Mr.M.Magesh
S/o.Manio

... Petitioner

.Vs.

- 1.The Director General of Police
Dr.Radhakrishnan Road
Mylapore Chennai-04.
2. The Commissioner of Police
Vepperi High Road
Vepperi, Chennai- 07.
3. Mr.Ravichandra
Assistant Commissioner of Police
Anna Nagar
Chennai- 40.
4. Mr.Kirubanithi
Inspector of Police, K3 Police Station
Amanjikarai, Chennai- 29.



5. Mr.Mani
Sub of Police, K3 Police Station
Amanjikai,Chennai- 29.

6 Subramani Pillai

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 1st and 2nd respondent to consider the Petitioner's representation dated 04.03.2023 and conduct enquiry in the said representation within a time frame fixed by this Honble Court.

For Petitioner : Mr.Chandrasekar
Senior Counsel
for Mr.A.Mohandoss

For Respondents : Mr.A.Gopinath
Government Advocate (Crl.Side)
for R1 to R5

ORDER

This writ petition has been filed for a direction to the 1st and 2nd respondents to consider the representation made by the petitioner on 04.3.2023 and to conduct an enquiry.

2.Heard Mr.Chandrasekar, learned Senior Counsel for the petitioner and Mr.A.Gopinath, learned Government Advocate (Crl.Side) appearing on behalf of the respondent Police.



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3.The learned Senior Counsel appearing on behalf of the petitioner submitted that the father of the petitioner started a business in the name and style of Mages Plastic. The 6th respondent had approached the father of the petitioner and expressed his willingness to start a partnership business. The 6th respondent also gave his assurance that he will manage the business and pursuant to the same, the business was conducted . The further case of the petitioner is that the 6th respondent had committed fraud and forgery against the father of the petitioner and he had never disclosed the accounts, money transactions properly to the father of the petitioner. In the meantime, the petitioner also joined the business. The father of the petitioner died on 27.9.2020. Thereafter, it is alleged that the 6th respondent took complete charge of the business and the petitioner was sidelined.

4.According to the petitioner, he is entitled for 50% of share in the business and the 6th respondent was attempting to grab the entire business. When the 6th respondent was questioned about the same, he also threatened the petitioner with dire consequences. Hence, the petitioner lodged a complaint before the 2nd respondent on 20.02.2023.



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5.While so, on 25.2.2023, the 6th respondent had engaged henchmen and they barged into the property belonging to the petitioner and they threatened the petitioner and forced the petitioner to hand over possession of the property where the business was conducted. The petitioner called the police through emergency number and no steps were taken by the police. On the other hand, the police had registered an FIR in Crime No.60 of 2023, based on the complaint given by the 6th respondent and the petitioner was arrested and remanded to judicial custody. According to the petitioner, the 6th respondent was trying to take over the entire business and he had taken the help of the police to dislodge the petitioner from the property. The further allegation made by the petitioner is that two documents were forcibly taken away from the petitioner with the police help.

6.In the light of the above allegations, the petitioner gave a complaint to the 1st and 2nd respondents on 04.3.2023. Since the same was not acted upon, the present writ petition has been filed before this Court.

7.The learned Government Advocate appearing on behalf of the respondent police submitted that the complaint given by the petitioner on



20.2.2023 was enquired by the Inspector of Police of K3 Police Station and the complaint was closed.

8.The learned Senior Counsel appearing on behalf of the petitioner submitted that the petitioner was never called for the enquiry and he was not put on notice and the petitioner was not even aware that the complaint given by him has been closed.

9.This Court specifically asked the learned Senior Counsel appearing on behalf of the petitioner as to whether the petitioner wants any departmental action to be taken against the police officer or the petitioner wants his complaint to be prosecuted in accordance with law. The learned Senior Counsel on instructions submitted that the petitioner had given the earlier complaint on 20.2.2023 and this was not acted upon and the substantial right of the petitioner is based on the complaint dated 20.2.2023 and hence, the petitioner wants to prosecute only the complaint.

10.In the light of the above submission made by the learned Senior Counsel appearing on behalf of the petitioner, it is seen that the complaint given by the petitioner has already been closed by the respondent police



without registering an FIR. In view of the same, it is left open to the petitioner to file an application u/s 156(3) Cr.PC., before the concerned jurisdictional Court. Based on the order passed by the learned Magistrate, the petitioner can workout his remedy in accordance with law. To that extent, this Court is inclined to safeguard the interest of the petitioner.

11.This writ petition is disposed of in the above terms. No costs.
Consequently, WMP No.18911 of 2023 is closed.

24.07.2023

Internet: Yes
Index : Yes/No
Neutral Citation Case: Yes/No
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To

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Dr. Radhakrishnan Road
Mylapore Chennai-04.
2. The Commissioner of Police
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Vepperi, Chennai- 07.
3. Mr. Ravichandra
Assistant Commissioner of Police
Anna Nagar
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4. Mr. Kirubanithi
Inspector of Police, K3 Police Station
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5. Mr. Mani
Sub-Inspector of Police, K3 Police Station
Amanjikarai, Chennai- 29.
6. Public Prosecutor
High Court, Madras.



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N. ANAND VENKATESH, J.
KP

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