



Crl.R.C.No.1298 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2023

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THE HONOURABLE MRS.JUSTICE **R.HEMALATHA**

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Supriya

... Petitioner

Vs.

State Rep. by its
The Inspector of Police,
W-35, All Women Police Station,
Tambaram, Chennai.

... Respondent

Prayer : Criminal Revision filed under Section 397 & 401 Cr.P.C. to call for the records and to set aside the order dated 23.02.2023 passed in Crl.M.P.No.312/2023 by the learned Judicial Magistrate-1, Tambaram.

For Petitioner :Mr.D.Padmanabhan

For Respondent :Mr.R.Vinothraja, GA (Crl. Side)

ORDER

Challenging the orders passed by the learned Judicial Magistrate-1, Tambaram in Crl.M.P.No.312/2023, the



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complainant/petitioner had filed this criminal revision.

2.The present revision petitioner had lodged a complaint with the Inspector of Police, All Women Police Station, Tambaram, Chennai against her husband/Bharathkumar stating that he used to consume alcohol on daily basis and that also ill-treated her both physically and mentally. Her further allegation was that her husband demanded a sum of Rs.5,00,000/- cash and a car as dowry and that her parents-in-law also joined with her husband and that they also ill-treated her by demanding dowry. According to her, her husband is also having illicit relationship with one Saranya. The Inspector of Police, All Women Police Station, Tambaram on receipt of the complaint, enquired the complainant as well as her husband Bharathkumar and recorded their statements. During the enquiry, the complainant/Supriya wanted her husband to return back her belongings. Her husband did not accede to her request and he directed her to approach a Court of law for getting those articles. Based on this, the Inspector of Police, All Women Police Station, Tambaram had closed the petition in CSR.No.179/2022 and thereafter, the revision petitioner



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approached the Judicial Magistrate –1, Tambaram by filing a private complaint under Section 200 Cr.P.C. She had prayed for sending her complaint to the concerned police for investigation under Section 156(3) Cr.P.C. In the complaint the present revision petitioner had reiterated her version which were found in the complaint dated 11.06.2023 preferred before the Inspector of Police, All Women Police Station, Tambaram.

3.The learned Judicial Magistrate - 1, Tambaram had dismissed the said petition by observing thus :

"6.On going through the records and arguments advanced on petitioner's side, it reveals that the petitioner namely Supriya got married with one Barathkumar on 01.10.2017. Further, it reveals that during the wedlock that is during the period of five years, they had no child. Further it reveals that, since there is no issues between them, there arose a dispute. Further the alleged illicit intimacy with one another lady averred in the petition, therefore, the petitioner went to her parents house and stayed there, after negotiation both of them lived together and again the petitioner left the matrimonial home and



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stayed with her parents house till date, since the above alleged disputes between husband and wife and the petitioner is residing at the parents house. Hence, at this juncture without opting proper, efficacious and comprehensive remedy before the proper forum, filing the petition before this Court is not sustainable. Hence, this petition is not sustainable liable to be dismissed. Hence, on considering above and in the interest of justice, this petition is dismissed as not sustainable."

4. A careful perusal of the complaint preferred by the present revision petitioner shows that she was ill-treated by her husband who according to her used to consume alcohol on daily basis. She was also demanded dowry both by her husband and parents-in-law. However, it is not known as to why the police had not taken any further action against the accused. In fact, the police had directed the present petitioner to approach the concerned Court for getting back her belongings from the respondent. Thus, the police had closed the complaint given by the present revision petitioner. Thereafter, she rightly approached the Judicial Magistrate-1, Tambaram. However, the Magistrate also declined



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5.This court is of the view that the police as well as the Judicial Magistrate committed grave injustice to the revision petitioner. Therefore the police is directed to reopen the CSR.No.179/2022 and they should follow the guidelines issued by the Hon'ble Supreme Court in ***Lalita Kumari v. Government of Uttar Pradesh (2014) 2 SCC 1*** ;

“i) Registration of FIR is mandatory under [Section 154](#) of the Code, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation.

ii) If the information received does not disclose a cognizable offence but indicates the necessity for an inquiry, a preliminary inquiry may be conducted only to ascertain whether cognizable offence is disclosed or not.

iii) If the inquiry discloses the commission of a cognizable offence, the FIR must be registered. In cases where preliminary inquiry ends in closing the complaint, a copy of the entry of such closure must be supplied to the first informant forthwith and not later than one week. It must



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disclose reasons in brief for closing the complaint and not proceeding further.

iv) The police officer cannot avoid his duty of registering offence if cognizable offence is disclosed. Action must be taken against erring officers who do not register the FIR if information received by him discloses a cognizable offence.

v) The scope of preliminary inquiry is not to verify the veracity or otherwise of the information received but only to ascertain whether the information reveals any cognizable offence.

vi) As to what type and in which cases preliminary inquiry is to be conducted will depend on the facts and circumstances of each case. The category of cases in which preliminary inquiry may be made are as under:

a) Matrimonial disputes/ family disputes

b) Commercial offences

c) Medical negligence cases

d) Corruption cases

e) Cases where there is abnormal delay/laches in initiating criminal prosecution, for example, over 3 months delay in reporting the matter without satisfactorily explaining the reasons for delay.



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The aforesaid are only illustrations and not exhaustive of all conditions which may warrant preliminary inquiry.

vii) While ensuring and protecting the rights of the accused and the complainant, a preliminary inquiry should be made time bound and in any case it should not exceed 7 days. The fact of such delay and the causes of it must be reflected in the General Diary entry.

viii) Since the General Diary/Station Diary/Daily Diary is the record of all information received in a police station, we direct that all information relating to cognizable offences, whether resulting in registration of FIR or leading to an inquiry, must be mandatorily and meticulously reflected in the said Diary and the decision to conduct a preliminary inquiry must also be reflected, as mentioned above.”

6.The orders passed by the Judicial Magistrate No.1, Tambaram in Crl.M.P.No.312/2023 dated 23.02.2023 is set aside. As already observed, the Inspector of Police, All Women Police Station, Tamabaram is directed to re-open the complaint dated 11.06.2022 preferred by the present revision petitioner/complainant and proceed



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7.In the result, this Criminal Revision Petition is disposed of.

No costs.

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Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
mtl

To

- 1.The Judicial Magistrate-1, Tambaram.
2. The The Inspector of Police, All Women Police Station, Tamabaram.
- 3.The Section Officer, Criminal Section, High Court, Madras.



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R. HEMALATHA, J.
mtl

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