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W.P.No.26665 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2023

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.26665 of 2021 and
W.M.P.No.28105 of 2021

Seema Singh

... Petitioner

Vs.

1.The Superintendent of Police,
O/o. Superintendent of Police,
Chengalpattu.

2.The Inspector of Police,
All Women Police Station,
Chengalpattu District.

3.Mr.Jawahar Singh

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus to direct the second respondent without transferring the complaint to Wellington Police Station lodged by the petitioner on 20.07.2021 numbered as CSR No.265 of 2021 to conduct the speedy enquiry consequent to that to register FIR against the third respondent under Sections 498(A), 406 and 34 of IPC and under Section 4 of the Dowry Prohibition Act, 1961, within the time frame as fixed by this Court.



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For Petitioner	...	Ms.R.Nasrine
For Respondents	...	Mr.A.Gopinath, Govt. Advocate (Crl.Side) for R1,R2 Mr.A.V.Arun for R3

ORDER

This Writ Petition has been filed to direct the second respondent without transferring the complaint lodged by the petitioner on 20.07.2021 numbered as CSR No.265 of 2021, to Wellington Police Station and to conduct a speedy enquiry and register an FIR against the third respondent under Sections 498(A), 406 and 34 of IPC and under Section 4 of the Dowry Prohibition Act, 1961, within the time frame as fixed by this Court.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) appearing for the first and second respondents and the learned counsel for the third respondent.

3. The learned counsel for the petitioner submitted that the petitioner had given a complaint against the third respondent by making serious allegations of marital cruelty; despite the same, the respondent police without taking any due action just siding with the third respondent.



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4. The learned Government Advocate (Crl.Side) appearing for the first and second respondents submitted that the complaint has already been transferred to All Women Police Station, Coonoor, as the cause of action for the complaint had arisen there; even while filing WMP No.28105 of 2021, the petitioner is aware of the fact that the complaint has already been transferred during the pendency of the Writ Petition itself.

5. The petitioner had made an endorsement that she had the knowledge about the transfer of the complaint to Wellington. But now it is clarified that the complaint has actually been transferred to All Women Police Station, Coonoor. The grievance of the petitioner is that despite she had lodged the complaint as early as on 20.07.2021, so far as no FIR has been registered. For the said grievance, the petitioner has got an efficacious remedy under Sections 154(3) or 156(3) Cr.P.C. In this regard, it is relevant to refer the judgment of the learned Division Bench of this Court held in the case of ***G.Prabhakaran v. The Superintendent of Police, Thanjavur*** reported in ***(2018) 2 LW Crl 489***. In the said judgment, it is held that there is an alternate efficacious remedy available under Section 156 (3) of



Cr.P.C. On the above subject, this Court has already set down the law as under:

“35. Accordingly, we answer the references in the following manner, while giving certain directions:

(i) Section 482 Cr.P.C. cannot be invoked in all circumstances.

(ii) It is not an alternative remedy to Section 156(3) Cr.P.C. but a repository of inherent power.

(iii) The normal course of remedy on a failure or refusal to record the information is Section 156(3) of the Code of Criminal Procedure after due compliance of Section 154(3) Cr.P.C.

(iv) A petition can be filed invoking the inherent jurisdiction of this Court only after the completion of 15 days from the date of receipt of the information by the Station House Officer. The Registry shall not receive any petition before the expiry of 15 days aforesaid.

(v) No petition shall be entertained without exhausting the remedy under Section 154(3) Cr.P.C.

(vi) An informant can send substance of the information to the Superintendent of Police on knowing the decision of the Station House Officer in not registering the case and proceeding with the preliminary enquiry. After conducting



the preliminary enquiry, the Station House Officer's decision in either registering the compliant or closing it will have to be intimated to the informant immediately and in any case not later than 7 days. Once such a decision is made, the informant cannot invoke Section 482 Cr.P.C. as the remedy lies elsewhere.

(vii) The directions issued by the Director General of Police in the circulars referred are to be strictly complied with by all the Station House Officers.

(viii) The affidavit to be filed shall contain particulars regarding the date of complaint, receipt and the date of sending substances of the information to the superintendent of Police under Section 154(3) Cr.P.C. and its receipt. The Registry shall not number any petition without due compliance.

(ix) This Court is not bound to direct the police to register the complaint in all cases notwithstanding the breach of time table furnished in Lalitha Kumari's case.

(x) The judicial Magistrates, while dealing the petitions under Sections 156(3) Cr.P.C. are directed to keep in mind the narratives in Lalitha Kumari's case with specific reference to the cases, which might require a preliminary enquiry before issuing a direction to investigate and after careful perusal of the complaint. The other directions



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issued by the learned Single Judge in Sugesan Transport's case are upheld.

(xi) Eschewing Section 156(3) Cr.P.C. is only on exceptional and rarest of rare cases. Monstrosity of the offence, extreme official apathy and indifference, need to answer the judicial conscience, and existence of hostile environment are few of the factors to be borne in mind to bring a case under the rarest of rare one.

The references stands ordered accordingly.”

6. Now the complaint has been transferred to the file of All Women Police Station, Coonoor and pending for enquiry in CSR No.256 of 2021. In view of the same, I feel it is appropriate to impress the Inspector of Police, All Women Police Station, Coonoor, to complete the enquiry in CSR No.256 of 2021 within a period of two weeks and do the needful in accordance with law.

7. With these observations, this Writ Petition is disposed and the Inspector of Police, All Women Police Station, Coonoor, is directed to complete the enquiry in CSR No.256 of 2021 within a period of two weeks from the date of receipt of a copy of this order and do the needful in



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accordance with law. If the petitioner is not satisfied with the outcome of the enquiry done by the Inspector of Police, All Women Police Station, Coonoor, she is at liberty to exhaust the remedy available under Section 156(3) of Cr.P.C., after observing the procedure contemplated in Section 154(3) of Cr.P.C. No costs. Consequently, connected miscellaneous petition is closed.

02.03.2023

Index: Yes/No
Internet: Yes/No
gsk

To

- 1.The Superintendent of Police,
O/o. Superintendent of Police,
Chengalpattu.
- 2.The Inspector of Police,
All Women Police Station,
Chengalpattu District.
- 3.The Inspector of Police,
AWPS, Coonoor,
The Nilgiris.
- 4.The Public Prosecutor,
High Court, Madras.



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R.N.MANJULA ,J.

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