



Crl.R.C.No.1711 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2023

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1711 of 2023

A.Velmurugan

... Petitioner

Vs.

1.The Superintendent of Police,
Tiruvallur District,
Tiruvallur.

2.The Inspector of Police,
C1 Uthukottai Police Station,
Uthukottai, Tamil Nadu – 602 026.

... Respondents

Prayer: Criminal Revision Petition filed under Sections 397 and 401 of Criminal Procedure Code, to set aside the order passed by the District Munsif cum Judicial Magistrate, Uthukottai in Crl.M.P.No.615 of 2023 dated 31.08.2023 and direct the first respondent to register FIR on the complaint dated 26.07.2023 of the petitioner herein to investigate the offence.

For Petitioner : Mr.A.Kalaiselvan

For Respondents : Mr.A.Damodaran
Additional Public Prosecutor



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ORDER

This revision petition is filed to set aside the order passed by the District Munsif cum Judicial Magistrate, Uthukottai in Crl.M.P.No.615 of 2023 dated 31.08.2023 and direct the first respondent to register FIR on the complaint dated 26.07.2023 of the petitioner herein to investigate the offence.

2.The petitioner earlier lodged a complaint before the Uthukottai Police Station on 26.07.2023. Since no action has been taken, the petitioner filed a petition under Section 156(3) Cr.P.C. before the learned District Munsif cum Judicial Magistrate, Uthukottai. The learned Magistrate by order dated 31.08.2023 held that the offences mentioned in the complaint are exclusively triable by the Special Court/Session Court and hence, finding no jurisdiction to register the FIR against the person mentioned in the complaint, dismissed the petition. Against which, the present revision petition is filed.



WEB COURT

3.The contention of the learned counsel for the petitioner is that the complaint clearly reveals that cognizable offence has been committed by the persons named in the complaint and further, the petitioner had only filed a petition to forward the complaint to register the FIR and not to take cognizance. He would submit that as per Section 14 of the Scheduled Castes and Scheduled Tribes [Prevention of Atrocities] Act, 1989 [hereinafter referred to 'SC/ST Act'] cognizance to be taken by the Special and the power of the Judicial Magistrate to forward the complaint to register FIR is unfettered. In support of his contention, the learned counsel for the petitioner relied on the decision of the Apex Court in the case of ***Shantaben Bhurabhai Bhuriya vs. Anand Athabhai Chaudhari and others*** reported in ***AIR 2021 SC 5368*** wherein it was held that it cannot be said that Section 14 of SC/ST Act takes away jurisdiction of the Magistrate to take cognizance and thereafter to commit the case to the Special Court for trial for the offences under SC/ST Act. Further, it was held that the Court so established or specified shall have power to directly take cognizance of the offence under this Court. He further relied on the judgment of the Allahabad High Court in the case of ***Naresh Kumar Valmiki vs. State of Uttar Pradesh and***



others [Application No.14443 of 2022 dated 17.10.2022] in which the question of consideration was whether a Special Judge can treat the application under Section 156(3) Cr.P.C. as a complaint case or not. The learned counsel for the petitioner referred to paragraph 23 therein and submitted that the Special Judge or Court so established can treat an application under Section 156(3) Cr.P.C. as a complaint and proceed further in accordance with law and buttressed the same for his submission that the Magistrate has got power to forward the complaint even for SC/ST offences to register the FIR and to investigate and the restriction is only with regard to taking cognizance of the offences.

4.The learned Additional Public Prosecutor on the other hand strongly opposed the petition and submitted that the contention of the petitioner is on a wrong notion. He would submit that the Apex Court in the case of *Shantaben Bhurabhai Bhuriya* had clearly held that as far as the offence under SC/ST Act is concerned, there is no cause for any committal and it is a Special Court wherein charge sheet can be directly filed. He further submitted that as per Section 156(3) Cr.P.C. the Magistrate can



forward the complaint for registration of FIR and investigation provided the said Magistrate has got power of taking cognizance of the same as per Section 190(1) of Cr.P.C., but in this case the Judicial Magistrate have got no power to take cognizance of the offences under SC/ST Act. He had also reiterated that the impugned order passed by the Trial Court is in order and hence, prayed for dismissal of this revision petition.

5.Considering the submissions made and on perusal of the materials, it is seen that for the offence under SC/ST Act if the petitioner is aggrieved he has to approach the Special Court and not the Magistrate Court. Further, as rightly pointed out by the learned Additional Public Prosecutor the Magistrates are empowered to forward the complaint under Section 156(3) Cr.P.c. only if they satisfy the condition under Section 190(1) Cr.P.C. In this case, Section 14 of SC/ST Act oust the jurisdiction of other Court and any offence committed under this Court would be triable exclusively by the Special Court. In view of the same, this Court finds no reason to interfere with the impugned order passed by the Trial Court.



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M.NIRMAL KUMAR, J.

cse

6. Accordingly, the Criminal Revision Petition stands dismissed.

12.10.2023

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
cse

To

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2. The Inspector of Police,
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3. The District Munsif cum Judicial Magistrate,
Uthukottai.
4. The Public Prosecutor,
High Court, Madras.

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