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Crl.OP.No.25116 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2023

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THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.OP.No.25116 of 2023

Edwin Christopher

... Petitioner

Vs.

1. The Commissioner of Police,
Tambaram Commissionerate,
Tambaram, Chennai.
2. The Deputy Commissioner of Police,
Central Crime Branch,
O/o. The Tambaram Commissioner,
Tambaram, Chennai.
3. The Assistant Commissioner of Police,
Guduvanchery Range,
O/o. The Commissioner of Police,
Tambaram, Chennai.
4. The Inspector of Police,
Central Crime Branch,
O/o. The Tambaram Commissioner,
Tambaram, Chennai.
5. The Inspector of Police,
S14, Peerkankaranai Police Station,
Chengalpattu District.

... Respondents



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Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to direct the Commissioner of Police, Tambaram or the Deputy Commissioner of Police, CCB, Tambaram to appoint an enquiry Officer above the rank of Inspector of Police to conduct proper and fare enquiry on petitioner complaints dated 02.03.2022, 05.03.2022 including fresh complaint dated 06.01.2023 by filling FIR within a time frame fixed by this Hon'ble Court.

For Petitioner : DR.R.Sampathkumar

For Respondents : Mr.S.Udaya Kumar
Government Advocate (Crl.Side)

ORDER

This petition is filed by one Edwin Christopher seeking transfer of Investigating Officer on his complaint dated 03.02.2022, 05.03.2022 including fresh complaint dated 06.01.2023 by filing an F.I.R within a time frame.

2. The learned counsel for the petitioner submitted that regarding cheating by one Rama Chandran and wife Vichitra had been moving the Court since 2022 and his grievance not been considered by the police. Earlier he has approached this Court by filing Criminal Revision Case in Crl.RC.No.1476 of 2022 to set aside the order passed by the Judicial Magistrate-I, Tambaram in Crl.MP.No.6124 of 2022 dated 27.10.2022



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alleging that his complaint before the Judicial Magistrate-I, Tambaram not been considered and therefore, the order has to be set aside .

However, from the typed set of papers and the perusal of the order passed by this Court in Crl.RC.No.1476 of 2022 dated 22.12.2022, this Court found that the petitioner been filing complaint against the said Ramachandran and his wife which has been considered by the Magistrate as well as the Police and closure reports been filed on various occasions and the same is extracted in the order passed by the Court in Crl.RC.No.1476 of 2022 and as far as the said Revision Petition is concerned, on perusal of the records, High Court has observed that there is no complaint pending against the Judicial Magistrate to set aside the order as prayed for.

3. After observing so, the Court has granted liberty to the petitioner herein to file a fresh complaint as contemplated under Section 156 of Cr.P.C before the Magistrate concerned. On receiving the complaint, the Judicial Magistrate may take decision on merits. This Order was passed on 22.12.2022. Having obtained liberty to file a fresh complaint, the petitioner herein has approached the learned Judicial Magistrate, Tambaram and had filed a petition under Section 156(3) seeking registration of FIR and investigate his complaint.



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4. The learned Judicial Magistrate on perusing the complaint and the orders of this Court directed the respondent police to receive the complaint and if any cognizable offence is made out, the second respondent directed to register an FIR within a period of six weeks and if not report to be filed before the Magistrate, this Order came to be passed by the Judicial Magistrate-I, Tambaram on 19.06.2023.

5. The typed set of papers furnished by the petitioner indicates that the respondent police pursuant to the direction of the Judicial Magistrate has conducted the investigation and has found that there is no material to take cognizance and therefore filed a closure report before the Judicial Magistrate. This has been received by the Judicial Magistrate-I, Tambaram on 18.08.2023. Now, advertent to the averments made in the petition for change of investigating Officer, the petitioner had averred that though he has furnishing materials which makes out a case to take cognizance. The Investigating Officer has not properly conducted an enquiry and not taken note of the fact that there are some case against Ramachandran pending on the file of the Saravanapatti Police Station, Coimbatore. The documents furnished by him were not sent for forensic examination and even without getting opinion of expert, they have closed the complaint.



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6. This Court on perusing these documents find that pursuant to the liberty granted by this Court, the petitioner has filed a complaint before the Magistrate, the same has been forwarded to the police for investigation. With their ability and capacity, the police has conducted enquiry and filed final report. The final report been received by the Magistrate, it is open for the Magistrate to consider the report and take appropriate decision under the law. If the petitioner is aggrieved by the final report, law permits him to file protest petition and to proceed further. Therefore, repeatedly forcing the police force to look into the complaint and on all earlier occasions his complaint been found to be mistake of fact is of no use. The request of change of investigation would be a futile exercise. When the law provides for alternative remedy to the petitioner herein by filing protest petition to proceed with his complaint, be it is advisable for him to resort to that remedy.

7. With the above observations, this Criminal Original Petition is disposed of.

Vv

02.11.2023



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5. The Inspector of Police,
S14, Peerkankaranai Police Station,
Chengalpattu District.
6. The Public Prosecutor,
High Court of Madras,
Chennai.



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Dr.G.JAYACHANDRAN,J.

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