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Crl.R.C.No.93 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2023

CORAM:

THE HON'BLE Ms.JUSTICE **R.N.MANJULA**

Crl.R.C.No.93 of 2023

Kailasam

... Petitioner

Vs.

1.Arulmani
2.Kabilarasan
3.Velmurugan
4.Parasuraman

... Respondents

PRAYER : Criminal Revision has been filed under Section 397 r/w.401 of Criminal Procedure Code, to set aside the order dated 07.12.2022 passed in Crl.M.P.No.367 of 2022 on the file of the Hon'ble Judicial Magistrate No.II, Mettur and consequently, direct the Hon'ble Judicial Magistrate No.II to take cognizance of the petitioner's complaint and proceed in accordance with law.

For Petitioner : Mr.R.Saravanan for
Mr.T.Sai Krishnan

ORDER

This Criminal Revision has been filed to set aside the order dated 07.12.2022 passed in Crl.M.P.No.367 of 2022 on the file of the Hon'ble Judicial Magistrate No.II, Mettur and consequently, direct the Hon'ble Judicial



Crl.R.C.No.93 of 2023

Magistrate No.II to take cognizance of the petitioner's complaint and proceed in accordance with law.

2. Heard the learned counsel for the petitioner. Since the accused has not entered appearance, notice for the respondent is not necessary at this stage.

3. The petitioner is the complainant who filed a petition under Section 200 Cr.P.C. The learned Magistrate has dismissed the complaint without taking cognizance. Aggrieved over the same, the petitioner has filed this Revision.

4. The learned counsel for the petitioner submitted that the petitioner had given a statement to the police that he had taken treatment in the Government Hospital subsequent to the occurrence and on which, no action has been taken; only in view of that, the petitioner has filed the private complaint; if the private complaint is also dismissed without any action, that will defeat the interest of justice.

5. On perusal of the order of the learned Magistrate, it is seen that the learned Magistrate has not chosen to take the case on file for the reason that



Crl.R.C.No.93 of 2023

the petitioner has not produced the relevant material. The petitioner has produced the earlier FIR registered on the basis of his statement and he has filed a private complaint only because there is no further action taken by the police on the FIR registered. The learned Magistrate has also observed that the petitioner did not produce any medical document in order to show that he has taken treatment in the Government Hospital. In fact, in the FIR filed by the petitioner itself it is seen that the statement was obtained from the Government Hospital whether the petitioner had taken treatment or not. Since the complaint has *prima facie* material, I feel it is appropriate to set aside the order passed by the learned Magistrate and direct her to take cognizance of the complaint and issue process to the respondent.

6. In view of the above direction, this Criminal Revision Petition is disposed.

20.01.2023

Index: Yes/No
Speaking / Non Speaking Order
gsk



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Crl.R.C.No.93 of 2023

R.N.MANJULA, J.

gsk

To

The Judicial Magistrate No.II,
Mettur.

Crl.R.C.No.93 of 2023

20.01.2023