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CrI.O.P.No.1275 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2023

CORAM:

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

CrI.O.P.No.1275 of 2023

J.Panneerselvam

...Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by the Commissioner of Police
(Crime Branch),
E.V.K.Sampath Salai,
Veppary,
Chennai – 600 007.

2.The Inspector of Police,
K5, Police Station,
Peravallur,
Chennai – 600 082.

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to direct the 2nd respondent police to file F.I.R. based on the complaint of the petitioner dated 13.12.2022 and 19.12.2022 respectively.

For Petitioner : Mr.R.Malaichamy

For Respondents : Mr.S.Santhosh
Government Advocate (Criminal side)

ORDER



CrI.O.P.No.1275 of 2023

This Criminal Original Petition has been filed to direct the 2nd respondent police to file First Information Report based on the complaint of the petitioner dated 13.12.2022 and 19.12.2022 respectively.

2. The learned counsel for the petitioner submitted that the petitioner borrowed money from one G.Kumaresan. At the time of borrowal, the petitioner's pension book, ATM card and ten unfilled cheques were secured by the said G.Kumaresan, as security. Petitioner had almost repaid the amount. Despite paying the money, the said G.Kumaresan is demanding exorbitant interest and threatening the petitioner to commit suicide. In this regard, a complaint dated 13.12.2022 was given. So far, no First Information Report is registered. Therefore, this petition.

3. In response, learned Government Advocate (Criminal side) submitted that the issue between the parties relates to monitory transaction. Both the parties have given a written statement stating that, they would resolve the dispute before the Court. Therefore, the complaint was closed.

4. Considered the rival submissions and perused the records.



CrI.O.P.No.1275 of 2023

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5. The perusal of the letter said to have given by the petitioner only says that, there is a difference between the amount borrowed and amount demanded by G.Kumaresan and the petitioner wanted to resolve the issue before this Court. It is not, as if, he wanted to settle the dispute before Civil Court. Therefore, closure of the complaint without conducting enquiry is not appropriate.

6. The Division Bench of this Court in ***G.Prabhakaran v. The Superintendent of Police, Thanjavur***, reported in ***(2018) 2 LW CrI 489*** and the Hon'ble Supreme Court in its latest judgment rendered by a three Judge Bench in ***M.Subramaniam v. S.Janaki***, reported in ***(2020) 5 CTC 464***, after relying upon ***Sakiri Vasu's*** Case, has categorically held that the High Court cannot issue any direction for registration of FIR. High Court can intervene only in extraordinary circumstances and rare cases. However, taking note of the fact that the complaint was inappropriately closed, the Investigation officer is directed to issue notice to the parties and conduct a fresh enquiry as directed by the Hon'ble Apex Court in the case of ***Lalita Kumari Vs. Government of Uttar Pradesh and others [2014 (2) SCC (1)]***.



CrI.O.P.No.1275 of 2023

If any cognizable offence is made out, the second respondent police is bound to register the FIR otherwise they may close the complaint. Such exercise shall be completed within a period of two weeks from the date of receipt of a copy of this order.

7. Therefore, this Court directs the respondent police to conduct proper enquiry, on the basis of the complaint given by the petitioner and take appropriate action in the manner known to law.

8. With the above direction, this Criminal Original Petition is disposed.

23.01.2023

Internet :Yes
Index :Yes/No

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To:

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Veppary,
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- 2.The Inspector of Police,
K5, Police Station,
Peravallur,
Chennai – 600 082.
- 3.The Public Prosecutor,
High Court of Madras.



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G.CHANDRASEKHARAN, J.

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