



WEB COPY

1

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.02.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P No.3955 of 2024

R.N.Sabu

.. Petitioner

VS.

1.The Commissioner of Police
No.132, EVK Sampath Road
Vepery, Periyampet, Chennai.

2.The Inspector of Police
Kilpauk Police Station
Shastri Nagar, Kilpauk
Chennai, Tamilk Nadu 600010.

..Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the respondent police to register FIR based on the Complaint given by the Complainant and in view of the order in Crl.MP.No.8952 of 2023 dated 24.3.2023, passed by the learned Metropolitan Magistrate-II, Egmore, Chennai.

For Petitioner : Mr.Mahesh Kumar

For Respondents : Mr.A.Gopinath
Government Advocate (Crl.Side)

ORDER

This criminal original petition was filed for a direction to the respondent police to register FIR pursuant to the order passed by the learned II Metropolitan Magistrate, Egmore in Crl.MP.No.8952 of 2023 dated 24.3.2023.



2.The petitioner after complying with the procedure prescribed under Section 154 of Cr.PC, approached the learned Magistrate for a direction to the respondent police to register FIR on the ground that the complaint reflects commission of a cognizable offence. The learned Magistrate by an order dated 24.3.2023 has directed the police to enquire the parties and find out if any cognizable offence is made out and thereafter, act in accordance with the judgment of the Hon'ble Apex Court in ***Lalitha Kumari Vs. Government of Uttar Pradesh*** reported in **2013 (6) CTC 353**.

3.The learned Magistrate has adopted a wrong procedure in the present case. This Court is encountering many such orders on a daily basis and therefore, thought of clarifying the issue.

4.Whenever the complainant furnishes information to the Station House Officer with respect to the commission of a cognizable offence, the Station House Officer is duty bound to register an FIR and proceed further with the investigation under Chapter XII of Cr.PC. If the Station House Officer does not act upon the complaint, Section 154(3) Cr.PC, provides for a mechanism wherein the complainant can approach the Superintendent of Police concerned and make a representation for a direction to investigate the case. If this complaint also does not evoke any response, the complainant can approach the Jurisdictional Magistrate Court and file an application under Section 156(3) of Cr.PC, for a direction to the Police to register the FIR.



5.The entire law on this issue was discussed in detail by the Hon'ble Apex Court in ***Lalitha Kumari Vs. Government of Uttar Pradesh*** reported in **2013 (6) CTC 353**. Except for carving out certain disputes like matrimonial disputes, money disputes, delay in lodging of complaint etc., the Hon'ble Apex Court categorically held that wherever the complaint makes out a cognizable offence, the Station House Officer is duty bound to register an FIR and proceed further with the investigation.

6.The remedy that is provided under Section 156(3) Cr.PC is to enable the learned Magistrate to apply his mind and see if the complaint makes out a cognizable offence and in spite of the same, the Station House Officer had refused to register the FIR and if so, issue appropriate directions to register the FIR. However, in many cases, this Court finds that the learned Magistrate is delegating this enquiry to the police and asking the police to enquire as to whether any cognizable offence is made out. Such a procedure adopted by the learned Magistrate is erroneous and should not be continued henceforth.

7.In the instant case, the learned Magistrate had committed this error in directing the police to conduct an enquiry and find if a cognizable offence is made out, in line with the judgment of the Hon'ble Apex Court in ***Lalitha Kumari's*** case. As a result of this direction, the police had conducted an enquiry and the complaint was closed and it was informed to the learned Metropolitan Magistrate-II, Egmore, Chennai.



8. In the light of the above discussion, the order passed by the learned Metropolitan Magistrate-II, Egmore, Chennai in CrI.MP.No.8952 of 2023, dated 24.3.2023, is hereby recalled. The learned Magistrate is directed to apply his mind and pass appropriate orders under Section 156(3) of Cr.PC, within a period of two weeks from the date of receipt of copy of this order. The closure report that was submitted by the police need not be acted upon by the learned Magistrate.

9. This criminal original petition is disposed of with the above directions. The learned Magistrate is directed to submit a report before this Court, after compliance of this order. The Registry shall follow up and get the report and place the report before me.

29.02.2024

Index : Yes
Internet : Yes
Speaking Order
kp



WEB COPY



To

- 1.The Commissioner of Police
No.132, EVK Sampath Road
Vepery, Periyampet, Chennai.
- 2.The Inspector of Police
Kilpauk Police Station
Shastri Nagar, Kilpauk
Chennai, Tamilk Nadu 600010.
- 3.II Metropolitan Magistrate
Egmore, Chennai.
4. The Public Prosecutor,
High Court of Madras,
Madras.



WEB COPY



6

N. ANAND VENKATESH,, J.
kp

Crl.O.P No.3955 of 2024

29.02.2024