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Crl.R.C.No.451 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2024

CORAM

THE HONOURABLE **MR.JUSTICE M.NIRMAL KUMAR**

Crl.R.C.No.451 of 2024

Kamala

... Petitioner

Vs.

State rep. by

The Inspector of Police,
R-8, Vadapalani Police Station,
Chennai – 600 026.

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 397 and 401 of Criminal Procedure Code, to set aside the order dated 28.12.2023 passed in Crl.M.P.No.17244 of 2023 on the file of learned XVII Metropolitan Magistrate, Saidapet, Chennai.

For Petitioner : Mr.T.Suriya

For Respondent : Mr.Raja Kumar

Additional Public Prosecutor

ORDER

This revision has been filed challenging the order dated 28.12.2023 passed in Crl.M.P.No.17244 of 2023 on the file of learned XVII Metropolitan Magistrate, Saidapet, Chennai.



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2.The petitioner had filed a complaint before the XVII Metropolitan Magistrate, Saidapet under Section 156(3) Cr.P.C. in C.M.P.No.17244 of 2023 seeking a direction to forward the complaint to the Inspector of Police, R-8, Vadapalani Police Station to register an F.I.R. and to file a final report. The learned XVII Metropolitan Magistrate, by an order dated 19.10.2023, directed the respondent police to register an F.I.R., if any cognizable offence is made out or submit a report without delay in three weeks from the date of receipt of that order. Thereafter, a report has been filed by the concerned police on 21.11.2023 and the impugned order came to be passed on 28.12.2023.

3.The contention of the petitioner is that the order dated 19.10.2023 passed by the trial Court is not proper. The duty of the Magistrate is that on perusal of the complaint, if found cognizable offence is made out, a direction to be issued to the respondent police to register an F.I.R. and proceed with the investigation and file a final report or forward the complaint under Section



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156(3) Cr.P.C. and if so pleases, to conduct an enquiry under Section 202

Cr.P.C. Thereafter, can direct the police to give an enquiry report. In this case, an order has been passed under Section 156(3) Cr.P.C. with an option giving to the police for clubbing both procedure, which is not proper. Further submitted that the impugned order does not give details about the application of mind as to whether the enquiry report is proper or not. A one line order accepting the report and giving liberty to the respondent police to proceed under Section 200 Cr.P.C. is not sustainable.

4.Considering the submissions made and on perusal of the material it is seen that the Inspector of Police, Vadapalani on 19.10.2023, after receipt of order, conducted enquiry, examined the petitioner, one Srinivasan, Geetha, Mathiveena and Leela. Whether it is under Section 156(3) Cr.P.C. after filing of F.I.R. or under Section 202 enquiry, is not known. This Court, without advertng to the enquiry and the merits of the case, finding that the order passed on 28.12.2023 is not proper and against the established principles of



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law. The learned counsel for petitioner also submitted the judgment of this Court in Crl.O.P.(MD) No.13328 of 2023 and referred to paragraph 12 of the order, which reads as follows:

“Therefore, on account of the reference of the complaint under Section 156(3) of Cr.P.C. by learned Magistrate and satisfying that there is a cognizable offence, the respondent police required to register the F.I.R. In case if the police are of the opinion that no offence is taken place during the course of investigation, they are liberty to file final report by filing final report under Section 173 of Cr.P.C. In case if any material exists, they are expected to file charge sheet under Section 173 of Cr.P.C.”

5.In view of the same, the order passed on 28.12.2023 is set aside.

The learned XVII Metropolitan Magistrate, Saidapet is directed to consider the complaint filed by the petitioner. If found cognizable offence is made out, forward the complaint under Section 156(3) Cr.P.C. and direct the respondent police to register an F.I.R. and file a report. If in the event, seeks to conduct enquiry, the procedure under Section 202 Cr.P.C. to be followed and pass appropriate orders.



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6. With the above directions, this Criminal Revision Case is allowed.

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Index : Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

rsi

To

1. The Inspector of Police,
R-8, Vadapalani Police Station,
Chennai – 600 026.
2. The XVII Metropolitan Magistrate,
Saidapet, Chennai.
3. The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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