



WEB COPY



Crl.O.P.No.6143 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.6143 of 2024

Senthilkumar

.. Petitioner

Vs.

State represented by
The Inspector of Police,
District Crime Branch, Namakkal.

.. Respondent

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to direct the respondent to register First Information Report as per order passed in CMP.No.4679 of 2023 on the file of the Judicial Magistrate No.1, Namakkal dated 14.06.2023.

For Petitioner	:	Mr.S.Sheik Ismail
For Respondent	:	Mr.A.Damodaran Additional Public Prosecutor

ORDER

This criminal original petition has been filed seeking for a direction to the respondent to register First Information Report as per order passed in CMP.No.4679 of 2023 on the file of the Judicial Magistrate No.1, Namakkal dated 14.06.2023.



2.Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent.

3.Pursuant to the order passed by the learned Judicial Magistrate No.1, Namakkal, the respondent Police has filed a report before the concerned Court stating that the dispute is civil in nature and therefore the parties will have to workout the remedy before the competent Civil Court. In the considered view of this Court, the direction that was given by the learned Judicial Magistrate No.1, Namakkal is erroneous.

4.This Court has already commented about the same in order dated 20.09.2018 in **CrI.O.P.(MD).No.13681 of 2018 & etc. batch**, in **G.Prabakaran Vs. The Superintendent of Police, Thanjavur District and another**. The relevant portions in order are extracted hereunder:

“35.Accordingly, we answer the references in the following manner, while giving certain directions:

(i)Section 482 Cr.P.C. cannot be invoked in all circumstances.

(ii)It is not an alternative remedy to Section 156(3) Cr.P.C. but a repository of inherent power.

(iii)The normal course of remedy on a failure or refusal to record the information is Section 156(3)



WEB COPY



Cr1.O.P.No.6143 of 2024

of the Code of Criminal Procedure after due compliance of Section 154(3) Cr.P.C.

(iv) A petition can be filed invoking the inherent jurisdiction of this Court only after the completion of 15 days from the date of receipt of the information by the Station House Officer. The Registry shall not receive any petition before the expiry of 15 days aforesaid.

(v) No petition shall be entertained without exhausting the remedy under Section 154(3) Cr.P.C.

(vi) An informant can send substance of the information to the Superintendent of Police on knowing the decision of the Station House Officer in not registering the case and proceeding with the preliminary enquiry. After conducting the preliminary enquiry, the Station House Officer's decision in either registering the complaint or closing it will have to be intimated to the informant immediately and in any case not later than 7 days. Once such a decision is made, the informant cannot invoke [Section 482 Cr.P.C.](#) as the remedy lies elsewhere.

(vii) The directions issued by the Director General of Police in the circulars referred are to be strictly complied with by all the Station House Officers.

(viii) The affidavit to be filed shall contain particulars regarding the date of complaint, receipt and the date of sending substances of the information to the superintendent of Police under [Section 154\(3\) Cr.P.C.](#) and its receipt. The Registry shall not number any petition without due compliance.

(ix) This Court is not bound to direct the police to register the complaint in all cases notwithstanding the breach of time table furnished in Lalitha Kumari's case.



WEB COPY



Crl.O.P.No.6143 of 2024

*(x)The judicial Magistrates, while dealing the petitions under **Sections 156(3)** Cr.P.C. are directed to keep in mind the narratives in **Lalitha Kumari's** case with specific reference to the cases, which might require a preliminary enquiry before issuing a direction to investigate and after careful perusal of the complaint. The other directions issued by the learned Single Judge in Sugesan Transport's case are upheld.*

*(xi)Eschewing **Section 156(3)** Cr.P.C. is only on exceptional and rarest of rare cases. Monstrosity of the offence, extreme official apathy and indifference, need to answer the judicial conscience, and existence of hostile environment are few of the factors to be borne in mind to bring a case under the rarest of rare one.*

The references stands ordered accordingly.”

5.In view of the above, there shall be a direction to the learned Judicial Magistrate No.1, Namakkal, to apply his mind on the allegations made in the petition along with the report that has been submitted by the respondent Police and pass appropriate orders within a period of two weeks from the date of receipt of a copy of this order.

6.The learned Judicial Magistrate No.1, Namakkal, is expected to apply his mind and direct the respondent Police to register the FIR if a cognizable offence is made out and the learned Judicial Magistrate No.1, Namakkal, cannot ask the Police to enquire and find out if any



Crl.O.P.No.6143 of 2024

cognizable offence has been made out. The procedure adopted by the Court below is not in accordance with law.

7.This Criminal Original Petition is disposed of with the above direction.

13.03.2024

krk

Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

To

1.The Judicial Magistrate No.1,
Namakkal.

2.State represented by
The Inspector of Police,
District Crime Branch, Namakkal.

3.The Public Prosecutor,
Madras High Court, Chennai.



WEB COPY



Crl.O.P.No.6143 of 2024

N.ANAND VENKATESH, J.

krk

Crl.O.P.No.6143 of 2024

13.03.2024