



Crl.R.C.No.524 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2024

CORAM

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

Crl.R.C.No.524 of 2024

K.Jayakumar

... Petitioner

Vs.

1.State rep.by
The Commissioner of Police,
No.132, Commissioner of Police,
EVK Sampath Road, Vepery,
Chennai-600 007.

2.The Inspector of Police,
F-5, Police Station, Choolaimedu,
Chennai-600 094.

3.Kumar
Proprietor of M/s.Faithful Engineering Pvt.Ltd.,
No.34, 17, Five Furlong Road, Maduvinkarai,
Guindy,
Chennai-600 032.

... Respondents

PRAYER: Criminal Revision Petition filed under Sections 397 and 401 of Criminal Procedure Code, to set aside the order passed in Crl.M.P.No.1202/2024 passed by the XVII Metropolitan Magistrate Court at Saidapet, Chennai.



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CrI.R.C.No.524 of 2024

For Petitioner : Mr.K.Elangovan

For Respondent : Mr.S.Rajakumar
Additional Public Prosecutor

ORDER

The petitioner had sent a complaint through registered post to the respondent police on 24.11.2023. Thereafter, followed the representation to the Commissioner of Police dated 13.12.2023. Since, no action has been taken, the petitioner filed a petition under Section 156(3) of Cr.P.C., before the trial Court in CrI.M.P.No.1202 of 2024 seeking direction. The said petition was dismissed for the reason that the transaction between the petitioner and one Kumar, proprietor of M/s.Faithful Engineering Pvt.Ltd., is civil in nature.

2. The contention of the petitioner is that the petitioner had presented the petition along with necessary documents including the invoice copy for delivery of Generator and its parts to the said Kumar who received the same and acknowledged. It is admitted by the said Kumar that totally for Rs.28,15,255/- and the transaction was between them, out of which Rs.18,51,079/- was paid by the 3rd respondent. Since the 2nd respondent



failed to take any action for the balance payment of Rs.9,64,176/-, the said Kumar had sought some time and thereafter, failed to make the payment.

The lower Court failed to consider the said Kumar had collected the money from the supplier. Thereafter, he had misappropriated the same and not paid to the petitioner. It is a case of misappropriation and cheating, which the lower Court had failed to consider, but dismissed the same on the ground that the transaction between them is commercial nature.

3. The learned counsel for the petitioner sent a complaint through registered post and thereafter to the Commissioner of Police, which has been forwarded to the jurisdictional police, who have called the petitioner for enquiry, but the petitioner had failed to appear for enquiry and to produce any documents to prove the transaction. Thereafter, the complaint was closed on 16.03.2024 and report has been sent on the same day to the petitioner through registered post. The learned counsel for the petitioner submits that he has not so far received the notice. The order passed in Crl.M.P.No.1202 of 2024 is set aside.

4. Be that as it may, the petitioner is directed to appear before the



Crl.R.C.No.524 of 2024

respondent police along with the copy of the complaint dated 23.11.2023 and relevant documents in support of his contention, that Kumar had cheated and misappropriated the amount of the petitioner. On receipt of the same, the respondent police shall conduct preliminary enquiry and if any cognizable offence is made out, register a case and proceed in accordance with law.

5. In view of the above, this Criminal Revision Case is allowed. The order of the trial Court is hereby set aside, since no proper enquiry has been conducted.

25.03.2024

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
rpl

To

1.The XVII Metropolitan Magistrate Court at Saidapet, Chennai.

2.The Commissioner of Police,
No.132, Commissioner of Police,



Crl.R.C.No.524 of 2024

EVK Sampath Road, Vepery,
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3.The Inspector of Police,
F-5, Police Station, Choolaimedu,
Chennai-600 094.

4.The Public Prosecutor,
High Court of Madras,
Chennai.



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Crl.R.C.No.524 of 2024

M.NIRMAL KUMAR,J.

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