



Crl.O.P.No.8357 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 05.04.2024

Coram:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.8357 of 2024

M.Selvam

... Petitioner

-Vs-

1.The Commissioner of Police
Commissioner Office, Vepery
Chennai.

2.The Inspector of Police
Puzhal Police Station
Chennai.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to set aside the order passed order passed by the District Munsif-cum-Judicial Magistrate, Madhavaram, in C.M.P.No.1424 of 2023 dated 14.09.2023 and subsequently direct the second respondent to register the petitioner's complaint dated 03.01.2023 immediately and to investigate the same in accordance with law.



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For Petitioner : Ms.V.Lakshmi

For Respondents : Mr.S.Udaya Kumar
Government Advocate (Crl.Side)

ORDER

This petition has been filed to set aside the order passed by the District Munsif-cum-Judicial Magistrate, Madhavaram, in C.M.P.No.1424 of 2023 dated 14.09.2023 and consequently, direct the second respondent to register the petitioner's complaint dated 03.01.2023.

2. The petitioner herein has filed petition before the District Munsif-cum-Judicial Magistrate, Madhavaram, under Section 156(3) of Cr.P.C., alleging that one Vetrichezhian along with Peramila Devi colluded and obtained sale deed of a subject property and thereafter, sold the same to the him receiving the consideration.

3. Already a complaint was registered against Vetrichezhian, which is under investigation in Crime No.119 of 2021. The said Vetrichezhian had promised to repay the amount when the amount is recovered from Peramila Devi.



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4. The learned Magistrate after going through the contentions of the complaint, found that on the complaint of the said Vetrichezian, the Police had already registered FIR against the said Peramila Devi and she was lodged in Prison. While so, the said Vetrichezian had assured to repay the money when the amount is recovered from the said Pramila. Since already there was a complaint for the same cause of action, there need not be any other further complaint. The Court below also observed that on the entire averments and on a plain reading of the materials on record indicates that it is only a civil dispute and no criminality is made out. Therefore, the learned Magistrate declined to entertain the petition under Section 156(3) of Cr.P.C.

5. Being aggrieved, the petitioner filed the present petition under Section 482 Cr.P.C., stating that the learned Magistrate ought to have taken the petition filed under Section 156(3) of Cr.P.C., on file and passed orders in accordance with law. The impugned docket order dated 14.09.2023 is liable to be set aside and the second respondent, the Inspector of Police, Puzhal Police Station, Chennai, be directed to register the petitioner's complaint dated 03.01.2023 and commence the investigation.



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6. It is necessary to point that as against the order dismissing petition under Section 156 (3) of Cr.P.C., the remedy available to the petitioner is to file a private complaint under Section 200 Cr.P.C., and follow the procedures as contemplated therein. Even otherwise, this Criminal Original Petition filed under Section 482 of Cr.P.C. this Court well exercising its inherent powers, must see as to whether there is any illegality or error in respect of the order of the Court below which is impugned. While examining the impugned order passed by the Judicial Magistrate, on 14.09.2023, this Court finds that the impugned order is in accordance with law. The learned Magistrate has rightly pointed out that when the crime has already been taken cognizance and FIR been registered, the same is under investigation, the other consequential crime in question gets merged as the investigation has already started.

7. That apart, the documents filed along with the complaint on perusal by this Court, it is not sure whether there is any criminality to take cognizance. Therefore, it is open to the petitioner to file a petition under



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Section 200 Cr.P.C in respect of his complaint if same does not form part of the investigation in Crime No.119 of 2021. Accordingly, ***this Criminal Original Petition is dismissed.***

05.04.2024

Index :Yes/No.
Internet : Yes/No.
dna

Copy-to:

- 1.The Commissioner of Police
Commissioner Office, Vepery
Chennai.
- 2.The Inspector of Police
Puzhal Police Station
Chennai.
- 3.The Public Prosecutor
High Court, Madras.



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DR.G.JAYACHANDRAN.J,

dna

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