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Crl.O.P.No.16042 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.16042 of 2024

P.Selvam.

... Petitioner

/versus/

1. R.Dasarathan.

2. D.Valarmathi.

4. The Inspector of Police,
Chinna Salem Police Station,
Kallakurichi District.

...Respondents

Prayer: Criminal Original Petition has been filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, to set aside the order passed in Crl.M.P.No.1270 of 2024 dated 21.06.2024 by the Judicial Magistrate Court No.2, Kallakurichi.

For Petitioner : Mr.S.B.Viswanathan

For R3 : Mr.S.Udaya Kumar,
Government Advocate (Crl.Side)



CrI.O.P.No.16042 of 2024

ORDER

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The petitioner herein has given a complaint to the Chinnasalem Police Station on 03.02.2024 alleging that the 1st respondent has given a cheque which belongs to his wife's account and thereby, cheated the complainant. The said complaint which was registered in C.S.R.No.179 of 2024 was closed by the police directing the petitioner to approach the Court and get remedy and therefore, the petitioner has filed a complaint under Section 156(3) of Cr.P.C before the Judicial Magistrate-II, Kallakurichi. Unfortunately, the Judicial Magistrate has returned the complaint stating the offence is arising out of N.I Act and therefore, petition under Section 156(3) of Cr.P.C is not maintainable.

2. Being aggrieved, the present petition is filed to set aside the order of the Judicial Magistrate-II Kallakurichi.

3. When the matter was came up for hearing on 09.07.2024, this Court directed the Government Advocate (CrI.Side) to find out why the complaint given to the respondent police not acted upon. The Government Advocate (CrI.Side) states that since the Station House Officer felt that the matter has to be decided by the Court, same has been closed.

4. This Court, on perusing the complaint given to the Inspector of



CrI.O.P.No.16042 of 2024

Police, Chinnasalem which is dated 03.02.2024 discloses the case of cheating by issuing a cheque signed by the accused, when the cheque is not from the account maintained by the accused. Therefore, the order of the Judicial Magistrate dismissing the complaint as well as the inaction of the police not registering the F.I.R to proceed further is patently illegal and against law.

5. The respondent police at the first instance ought to have been enquired the complaint dated 03.02.2024 for which they have given the C.S.R receipt No.119 of 2024. Having failed to register the complaint, the petitioner herein has approached the Superintendent of Police reiterating the complaint and thereafter, has gone to the Judicial Magistrate to take his complaint on file and proceed. The procedure adopted by the petitioner herein is inconsonance with law and the dictum laid down by the Hon'ble Supreme Court in ***Lalitha Kumari -vs- State of Uttar Pradesh.***

6. Therefore, in exercise of power under Section 482 of Cr.P.C., this Court direct the Inspector of Police, Chinnasalem to register the complaint and investigate whether the accused has affixed his signature in the cheque of his wife and issued it to the petitioner to defraud him and if so, proceed as per the out come of the investigation, in accordance with law, forthwith.



Crl.O.P.No.16042 of 2024

WEB COPY

7. With this observation, this Criminal Original Petition is disposed of.

29.07.2024

Index : Yes/No.
Neutral Citation : Yes/No.
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Copy to:-

1. The Judicial Magistrate Court No.2, Kallakurichi.
2. The Inspector of Police, Chinna Salem Police Station, Kallakurichi District.
3. The Public Prosecutor, High Court, Madras.



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Crl.O.P.No.16042 of 2024

Dr.G.JAYACHANDRAN,J.

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Crl.O.P.No.16042 of 2024

29.07.2024