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Crl. O.P. No. 23417 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.OP.No.23417 of 2024

Salika

.. Petitioner

Vs.

1. The Superintendent of Police
Salem District, Salem.

2. The Inspector of Police
All Women's Police Station,
Attur, Salem.

.....Respondens

Prayer: Criminal Original Petition is filed under Section 482 of Code of Criminal Procedure, to set aside the preliminary enquiry report of the 2nd respondent dated 10.11.2023 filed before the learned Judicial Magistrate II, Attur in CMP.No.3369/2023

For Petitioner : Mr.M.Mohammed Rafi

For Respondent : Mr. K.M.D.Muhilan
Government Advocate (Crl.Side)
for R1



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ORDER

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The petitioner herein is before this Court raising her grievance that her complaint to the respondent police regarding dowry harassment was not registered for investigation by the respondent police and therefore she has approached the learned Judicial Magistrate-II, Attur under Section 156(3) of Cr.P.C to take up her complaint for investigation.

2. The learned Judicial Magistrate-II, Attur has thought fit that the preliminary enquiry must be conducted by the police and final report to be filed within a period of six weeks. The said order was passed on 28.08.2023 was not acted upon by the respondent police. Therefore, the petitioner was forced to file a memo before the concerned Judicial Magistrate informing that even after lapse of six weeks, the respondent police has not completed the preliminary enquiry and filed report. This memo was filed on 02.11.2023 and thereafter, the Investigating Officer had filed a closure report in the ante date as 22.10.2023, but, presented before the learned Judicial Magistrate only on 10.11.2023. The said closure report without proper investigation and biased manner warrants interference of this Court.



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3. The learned Government Advocate (Crl.Side) appearing for the respondent police submits that the preliminary enquiry conducted by the Investigating Officer does not disclose any cognizable offence and infact the statement of witness indicates that the petitioner has voluntarily with draw from the matrimonial life and went to her parents house and the allegation of harassment is ill found.

4. The learned Government Advocate further submits that investigation conducted by the police on registering the FIR if leads to closure of the complaint as “ mistake of fact' , refer charge sheet is filed before the Court and intimated to the complainant. As far as investigation conducted on the direction of the Magistrate under Section 156(3) of Cr.P.C, report is submitted to the Magistrate and it is left to the discretion of the Judicial Magistrate to accept it or to proceed further under Section 203 of Cr.P.C causing summons to the witness treating as a private complaint under Section 200 of Cr.P.C.

5. It is submitted by the learned counsel appearing for the petitioner that the learned Judicial Magistrate has accepted the closure report filed by the second respondent who has conducted enquiry in a biased manner.



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6. In the given facts and circumstances to meet the ends of justice it is appropriate to direct the Judicial Magistrate to take the complaint on file and proceed further in the manner established under law for conducting a private complaint under Section 200 of Cr.P.C cause process to the complainant, examine him and then proceed further.

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

24.09.2024

Vv

To

1. The Superintendent of Police
Salem District, Salem.
2. The Inspector of Police
All Women's Police Station,
Attur, Salem.
3. The Public Prosecutor,
High Court of Madras.



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Dr.G.JAYACHANDRAN,J.

Vv

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