



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.28792 of 2023

S.Daniel

... Petitioner

Vs.

1.The Inspector of Police,
T-3, Pallavaram Police Station,
Chennai – 600 043.

2.The Assistant Commissioner of Police,
Pallavaram Range, Pallavaram,
Chennai – 43.

3.The Deputy Commissioner of Police,
West Tambaram,
Chennai – 45.

4.The Commissioner of Police,
Tambaram Commissioner Police,
Solinganallur, Chennai – 119.

...Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to issue a direction to the 1st respondent police to register complaint dated 16.11.2022 as per order of the learned District Munsif cum Judicial Magistrate, Pallavaram in CMP No.312 of 2023 dated 05.04.2023.



For Petitioner : Mr.B.Vasudevan
For Respondent : Mr.A.Damodaran
Additional Public Prosecutor

ORDER

This petition has been filed for a direction to the 1st respondent police to register the FIR based on the complaint made by the petitioner on 16.11.2022, based on the order passed by the Court below in CMP.No.312 of 2023, dated 05.04.2023.

2.When the matter was taken up for hearing, the learned Additional Public Prosecutor appearing on behalf of the respondents submitted that based on the order passed by the Court below, an enquiry was conducted and a closure report has been filed before the Court below on the ground that no offence has been made out.

3.The learned counsel for the petitioner submitted that the Court below while passing the order came to a *prima facie* conclusion that the facts of the case discloses commission of cognizable offence. When such a finding is given, the respondent police is expected to register an FIR and thereafter, proceed further with the investigation. Whereas, in the instant case, an enquiry was conducted and the



complaint itself was closed. The learned counsel therefore sought for issuance of appropriate direction to the respondent police.

4.This Court carefully went through the order passed by the Court below. Paragraph No.6 of the order of the Court below in CMP.No.312 of 2023, dated 05.04.2023, is self-contradictory. In the initial portion of the paragraph, the Court below states that the Court is *prima facie* satisfied that the information given discloses commission of a cognizable offence. However, while issuing directions, the Court below has directed the Station House Officer to conduct an enquiry to ascertain whether the information given by the complainant discloses the commission of cognizable offence. If the Court has already come to a conclusion that the complaint discloses cognizable offence, there is no need for the Court below to once again direct the Station House Officer to apply his mind as to whether the complaint discloses commission of cognizable offence. This contradiction at Paragraph No.6 of the order is the real cause of the confusion in this case. In view of the same, the police has conducted an enquiry on the complaint and has submitted a report before the Court below stating that no offence has been made out.

5.The report has been submitted before the Court below after an enquiry. The



report is now available before the Court. It is the duty of the learned Judicial Magistrate, Pallavaram to clarify as to what was the direction that was meant to be given at Paragraph No.6 of the order dated 05.04.2023. If the learned Judicial Magistrate had meant that the complaint makes out the commission of a cognizable offence, the Court below shall direct the respondent police to register an FIR and to proceed further with the investigation in line with Chapter XII of Cr.P.C. If on the other hand, the Court below had only directed the police to conduct an enquiry and see if a cognizable offence has been made out, the Court below shall go through the report filed by the police and take a decision with respect to the further course of action. In any event, the Court below shall take a decision, within a period of two weeks from the date of receipt of copy of this order.

6.This criminal original petition is disposed of with the above directions.

09.01.2024

Index : Yes/No

Internet : Yes/No

Speaking/Non-Speaking Order

ssr

Note: Issue Order Copy on 11.01.2024



To

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- 4.The Commissioner of Police,
Tambaram Commissioner Police,
Solinganallur, Chennai – 119.
- 5.The Public Prosecutor,
High Court, Madras.



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N.ANAND VENKATESH, J

SSR

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