



Crl.O.P.(MD)No.9896 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.11.2024

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD) No.9896 of 2023

Mohamed Noufal

... Petitioner

Vs.

Habib Mohamed @ Yasar,
S/o.Nagoor Kani,
Cyber Crime Police,
Tenkasi, K.P.M.Nagar,
Ponpozhi, Tenkasi District.

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to set aside the order passed by the learned District Munsif cum Judicial Magistrate, Shencottah, Tenkasi District in Crl.MP.No.2003 of 2023 dated 05.05.2023 in so far as the liberty that has been given to the Inspector of Police, Atchanpudhur.

For Petitioner : Mr.R.Anand



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ORDER

This petition has been filed challenging the proceedings of the learned Judicial Magistrate, Shencottah in Crl.MP.No.2003 of 2023 dated 05.05.2023.

2.Heard the learned counsel for the petitioner and carefully perused the materials available on record.

3.The petitioner filed an application under Section 156(3) of Cr.P.C. before the learned Magistrate on the ground that a cognizable offence was made out and in spite of the same, the police did not register the FIR. The Magistrate instead of dealing with this application has directed the petitioner to work out his remedy as per the judgment of the Division Bench in *Sugesan Transport Pvt. Ltd v. The Assistant Commissioner of Police*, reported in *2016 (5) CTC 577*.

4.In the considered view of this Court, the learned Magistrate has not properly understood the scope of the judgment of the



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Division Bench. The Division Bench had held that the petition under Section 482 of Cr.P.C. is not maintainable before the High Court seeking for registration of an FIR. If the complaint given is not acted upon, the party can always approach the learned Magistrate and file an application under Section 156(3) of Cr.P.C. Once such application is filed, the Magistrate has to apply his mind and see if the complaint makes out a cognizable offence. In such an event, the Magistrate has to direct the registration of FIR by the police. The Magistrate cannot once again ask the police to conduct the preliminary enquiry and submit a report. The direction that was given to the Magistrates, has now been used by the learned Judicial Magistrate denying the relief sought for by the petitioner. The order passed by the learned Magistrate is unsustainable and requires the interference of this Court.

5.In the light of the above discussion, the order passed in Crl.MP.No.2003 of 2023 by the learned District Munsif cum Judicial Magistrate, Shencottah, dated 05.05.2023, is hereby set aside. The learned Magistrate shall deal with the application and see if a cognizable offence is made out and if so, a direction shall be issued to the police to



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register the FIR. Orders shall be passed in this regard within a period of four weeks from the date of receipt of a copy of this order.

6.In the result, this Criminal Original petition is allowed with the above direction.

19.11.2024

NCC	:	Yes / No
Index	:	Yes / No
Internet	:	Yes / No
PKN		



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- To
- 1.Habib Mohamed @ Yasar,
S/o.Nagoor Kani,
Cyber Crime Police,
Tenkasi, K.P.M.Nagar,
Ponpozhi, Tenkasi District.
 - 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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N.ANAND VENKATESH,J.

PKN

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