



W.P(MD)No.15463 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.07.2024

CORAM :

THE HON'BLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.15463 of 2024

Pathrakali

... Petitioner

Vs

**1. The Commissioner of Police,
Madurai City,
Madurai.**

**2. The Inspector of Police,
Central Crime Branch III,
Madurai City.**

3. T.K.Balaji

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, forbearing the second respondent from interfering with the civil dispute pending between the petitioner and the third respondent which is subject matter of pending suit in O.S.No.46/2024 on the file of the I Additional District Court, Madurai under the guise of enquiry.



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For Petitioner : Mr.K.Sathish Kumar,
For R1 & R2 : Mr.M.Sakthi Kumar
Government Advocate (Crl.Side)
For R3 : Mr.N.Sathish Babu

ORDER

This Writ Petition has been filed seeking a direction to the second respondent not to interfere with the civil dispute pending between the petitioner and the third respondent.

2.The learned Counsel for the petitioner submits that it is purely civil dispute between the petitioner and the third respondent, for which, the third respondent has availed the services of the Police and has also obtained an order from the concerned Magistrate under Section 153(3) Cr.P.C. He further submits that the respondent police has issued summons in the month of February 2024. At that time, the petitioner has appeared before the respondent police, produced all the relevant documents. Despite that again summons has been issued and the respondent police is attempting to persuade the petitioner to act in favour



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of the third respondent.

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3.The learned Government Advocate (CrI.Side) appearing for the respondent police submits that the third respondent has lodged a complaint before the learned Judicial Magistrate, Madurai and the same has been referred to the respondent police under Section 156(3) Cr.P.C and therefore, the respondent police has issued summons to the petitioner to find out the truth.

4.The learned Counsel appearing for the third respondent submits that the petitioner, by promising to sell a property, has received a sum of Rs.1,08,10,000/-. On various dates. Out of which, a sum of Rs. 41,00,000/- was transferred to the petitioner through Bank transaction. Having received the amount, the petitioner is now taking a stand that he has not received the money. Therefore, the third respondent has lodged the complaint before the respondent police.

5.This Court has considered the rival submissions made.



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6.The submissions made on behalf of the third respondent appears to be civil in nature. It is not known under what circumstances the police have issued summons in the month of February 2024. It appears that the concerned Magistrate has mechanically referred the complaint under Section 156(3) Cr.P.C to the respondent police and now, the police have again issued summons to the petitioner. In the event if the complaint has been referred under Section 156(3) Cr.P.C, it is the duty of the respondent police to ascertain whether any cognizable offence is made out in the complaint. Without doing that, they are not expected to issue summons before registering a case, calling upon the petitioner and doing Kattapanchayat with the strength of the order passed by the learned Judicial Magistrate, Madurai. The Duty is also cast upon the learned Magistrate to see what is the nature of allegation, whether the allegations made in the complaint are civil in nature or not. However, most of the Magistrates are mechanically referring the complaints under Section 156(3) Cr.P.C to the police officers.

7.It appears that the third respondent has also filed a civil suit for specific performance before the I Additional District Court, Madurai in O.S.No.46 of 2024. The third respondent instead of invoking his remedy



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available before the civil Court, has availed the service of the Police officers, since the police officers' services is very much easily available.

8. With the above observations, this Writ Petition is allowed. No costs. The respondent police shall not harass the petitioner.

11.07.2024

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

LR

To
1. The Commissioner of Police,
Madurai City,
Madurai.

2. The Inspector of Police,
Central Crime Branch III,
Madurai City.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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B.PUGALENDHI, J.

LR

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