



CrI.O.P.(MD)No.11179 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 30.07.2024

Pronounced on : 08.08.2024

CORAM :

THE HON'BLE MR.JUSTICE B.PUGALENDHI

CrI.OP(MD)No.11179 of 2024

Elango

... Petitioner

Vs

1.The Inspector of Police,
Thallakulam Police Station
Law and Order,
Madurai City.

2.The Inspector of Police,
Central Crime Branch(CCB),
Madurai,
Madurai City.

3.The Director General of Police,
Chennai.

...Respondents

(R3 is *suo motu* impleaded as per the order of this Court in CrI.OP(MD) No.11179 of 2024 by BPJ)

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the respondent to comply with the direction issued by the learned Judicial Magistrate II, Madurai in Cr.MP.No. 97/2024, dated 22.01.2024 and to consequently register the FIR in the light of the judgment of this Court in Sugesan Transport Private Limited Vs the Assistant Commissioner of Police.



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For Petitioner	: Mr.S.Poornachandran,
For Respondents	: Mr.M.Sakthi Kumar
	Government Advocate (Crl.side)

ORDER

The petitioner has approached this Court with a grievance that he has been harassed by some persons, demanding exorbitant interest, for which, he has lodged a complaint, before the first respondent/the Inspector of Police, Tallakulam Police Station on 26.11.2023 and that was not attended. Therefore, he has lodged a complaint before the Deputy Commissioner of Police, Madurai North on 28.11.2023 and the same was forwarded by the Deputy Commissioner of Police to the first respondent for an enquiry. However, no case has been registered. Therefore, the petitioner has approached the learned Judicial Magistrate No.II, Madurai, by way of a Miscellaneous Petition in Crl.MP No.97 of 2024, under Section 156(3) of Cr.P.C. The learned Judicial Magistrate No.II, Madurai, after conducting an enquiry, has referred the complaint of this petitioner for an investigation by the first respondent with a direction to register FIR or to file a report on or before 22.02.2024, by order dated 22.01.2024. Even after this direction, FIR has not been registered. Therefore, the petitioner was constrained to approach this Court, seeking a direction to the



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first respondent to comply with the order of the learned Judicial Magistrate No.II, Madurai, in Crl.MP No.97 of 2024, dated 22.01.2024 and to register FIR.

2.The case of the petitioner is that he is running a Software Company, namely, "WIPROTECH" at Madurai. In the year 2020, during COVID-19 outbreak, he suffered a loss in his business and therefore, he has borrowed a sum of Rs.2 Lakhs from one Karthick Selvam, a financier through an agent, Sheik Imran. At the time of borrowing the amount, the financier has obtained blank cheques and blank pro-notes and also signature in the blank green sheets and the petitioner was informed that the rate of interest would be 2.5% per month. However, they have demanded 10% rate of interest per month. He further claims that he was intimidated by the financier and therefore, he was constrained to borrow money from others to pay the exorbitant interest. As on date, he has paid around Rs. 2,26,52,862/- to the financier through various bank transactions. Apart from this, the financier was said to have taken away the petitioner's Royal Enfield Motor Cycle bearing Reg.No.TN 59 CA 4867 in the month of November 2022 and also his Toyota Etios Car bearing Reg.No.TN 59CE 4925 in the month of April 2023. He also states that the financier along



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with the broker and others has intimidated him to transfer his Software Company to their names, failing which, they would kill him. In this circumstances, this petitioner has initially lodged a complaint before the first respondent on 26.11.2023 and when the same was not acted upon, he has lodged another complaint before the Deputy Commissioner of Police. Since no action has been taken on his complaint lodged before the Deputy Commissioner of Police, he has approached the learned Judicial Magistrate No.II, Madurai. Since the respondent police has not acted upon the petitioner's complaint, the financier has also foisted a case as against the petitioner under Section 138 of Negotiable Instruments Act, 1881, with the blank cheques and other documents forcibly obtained from him, at the time of borrowing the amount. The learned counsel for the petitioner submits that the complaint itself constitute a cognizable offence and an offence under the provisions of Tamil Nadu Prohibition of Charging of exorbitant Interest Act, 2003. However, the respondent police has failed to take action in order to protect the accused persons.

3.Considering the submissions made by the petitioner and the orders of the learned Judicial Magistrate No.II, Madurai passed under Section 156(3) of Cr.P.C, in Crl.MP No.97 of 2024, dated 22.01.2024, this



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Court verified with the learned Additional Public Prosecutor as to the stage of the complaint of this petitioner. The learned Additional Public Prosecutor submits that since the value of the complaint is more than Rs.50 Lakhs, depending upon the pecuniary value of the complaint, the first respondent has transferred the case files to the second respondent for taking necessary action and the second respondent is yet to take a call on the complaint. Since the complaint forwarded by the learned Judicial Magistrate No.II, Madurai, on 22.01.2024 was not registered with any criminal case, this Court, by order dated 23.07.2024 directed the Commissioner of Police, Madurai City to file a report as to the reasons for not taking any action on the complaint forwarded by the learned Judicial Magistrate No.II, Madurai in CrI.MP No.97 of 2024.

4.The commissioner of Police, Madurai City has filed a report on 30.07.2024 that the initial complaint lodged by this petitioner in the month of November 2023 was treated as petition enquiry in C.No. 805/PG/DCP/North/MC/ 2023, dated 28.11.2023 and the petitioner was advised to approach the Central Crime Branch, Madurai City. However, the petitioner, instead of approaching the second respondent has preferred a petition under Section 156(3) of Cr.P.C before the learned Judicial



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Magistrate No.II, Madurai and the learned Judicial Magistrate No.II, Madurai, by his order, dated 22.01.2023 directed the first respondent to conduct an enquiry and to file a report by 22.02.2024. The said order of the learned Judicial Magistrate was received by the first respondent on 23.01.2024 and the first respondent has sought for clarification from the learned Judicial Magistrate No.II, Madurai, with regard to the jurisdiction to register FIR. The Commissioner of police has also stated that they have transferred the case files to the second respondent for taking action as per the order, dated 22.01.2024 and intimated the same to the learned Judicial Magistrate No.II, Madurai, on 29.04.2024. He also states that the learned judicial magistrate enquired the second respondent, wherein, the second respondent has informed the Court that the complaint is civil in nature, so that it cannot be investigated, thereby, they have re-transferred the files to the first respondent on 01.05.2024. While so, the learned Judicial Magistrate No.II, Madurai has once again passed an order on 26.07.2024, directing the first respondent to register the FIR and to conduct investigation. Accordingly, the first respondent has registered a case in Crime No.798 of 2024 on 27.07.2024, for the offence under Section 448, 120B, 406, 420, 294(b) and 506(i) of IPC and Section 4 of Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003. The report of the



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Commissioner of Police ends with a remarks that the order of the learned Judicial Magistrate in Crl.MP No.97 of 2024 was complied with.

5.This Court considered the rival submissions made and also perused the materials placed on record.

6.The petitioner has filed this Criminal Original Petition, seeking a direction to the respondent police to comply with the order of the learned Judicial Magistrate No.II, Madurai in Cr.MP.No.97 of 2024, dated 22.01.2024. This application was filed on 15.01.2024 and the first respondent has registered a case in Crime No.798 of 2024 on 27.07.2024. This according to the Commissioner of Police, Madurai City is pursuant to the second direction issued by the learned Judicial Magistrate No.II, Madurai on 26.07.2024. The justification made by the Commissioner of Police for not taking action on the complaint forwarded by the learned Judicial Magistrate in the month of January 2024 is that that first respondent/the Inspector of Police, Tallakulam Police Station has referred the matter on jurisdiction aspect to the second respondent/the Inspector of Police, Central Crime Branch. The second respondent found that this complaint is of civil in nature, has re-transferred the files to the first



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respondent on 01.05.2024. The learned Judicial Magistrate No.II, Madurai has passed a further order on 26.07.2024 and pursuant to the same, the FIR was registered in Crime No.798 of 2024 on 27.07.2024.

7.In order to substantiate his contentions, the learned counsel for the petitioner has also relied on the "B Diary" of the learned Judicial Magistrate No.II, Madurai in Cr.MP No. 97 of 2024 and the same is extracted as under:-

21.12.2023	File along with the AD Card which was sent to Subinspector and Commissioner. Hence this petition is returned.
27.12.2023	AD Card attached. Correction rectified. Hence this petition represented before this Hon'ble Court today. Call on 04.01.2024.
04.01.2024	For enquiry call on 11.01.2024.
11.01.2024	For enquiry call on 22.01.2024.
22.01.2024	Heard, Order Pronounced, Detail order Vide Sheet. Petition forwarded to S.H.O Tallakulam (L & O) P.S for report Call on 22.02.2024.
22.02.2024	Petitioner absent, for report at request call on 15.03.2024.
15.03.2024	Petitioner present, Report already filed stated that the petition has been forwarded to C.C.B Police station as per stating order of commissioner as the amount involved in this case is above the limit. For submitting the copy of order transfer of case to C.C.B. call on 02.04.2024.



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02.04.2024	Petitioner present, S.I of Police Present, petition has been forwarded to C.C.B. Letter submitted for enquiry call on 15.04.2024.
15.04.2024	Complainant present, Police reported that case records has been sent to Assistant Commissioner of Police to serve it to the C.C.B P.S Madurai. Hence for filing proof of forwarding the case records call on 24.04.2024.

8.The order passed by the learned Judicial Magistrate No.II, Madurai on 22.01.2024 is also enclosed in the typed set of papers. The learned Judicial Magistrate No.II, Madurai has passed a detailed order, having satisfied that a *prima facie* case has been made out, referred the complaint for investigation by the first respondent, under Section 156(3) of Cr.P.C. The learned Judicial Magistrate has also suggested the respondent police to conduct preliminary enquiry, as directed by the Honourable Supreme Court in ***Lalitha Kumari Vs Government of Uttar Pradesh and others*** reported in ***(2013) 14 SCR 801 and Arnesh Kumar Vs. State of Bihar and another*** reported in ***[2014 (8) SCC 273]***. The learned Judicial Magistrate has also directed the first respondent to file a report before the court on 22.02.2024. The first respondent claims that on pecuniary jurisdiction, the complaint was forwarded to the second respondent/the Inspector of Police, Central Crime Branch, Madurai. However, the second



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respondent appears to have taken action on the complaint only in the month of May 2024 that it is civil in nature. The Honourable Supreme Court, while permitting the preliminary enquiry, without investigation has fixed an outer limit of two weeks. However, the second respondent has taken not less than four months to come to the conclusion that the nature of compliant is civil in nature.

9.This Court has perused the complaint. The case of the petitioner is for the money borrowed by him during COVID-19 period, the financier has demanded exorbitant interest at the rate of 10% per month, collected blank cheques, blank pro-note and also taken away the petitioner's Motor Cycle bearing Reg.No.TN 59 CA 4867 and a Toyota Etios Car bearing Reg.No.TN 59 CE 4925. the petitioner has also stated in his complaint that he has transferred a sum of Rs.2,26,52,862/- for the past 2 ½ years and all these transactions are through Google Pay and Phone pay. This nature of complaint certainly constitute the offence under the Tamil Nadu Prohibition of Charging of exorbitant Interest Act, 2003. Mere because the proposed accused has initiated a proceedings under Section 138 of NI Act as against this petitioner, that would not absolve the accused from the offence of charging exorbitant interest.



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10. Every police officer is expected to register the complaint constituting the cognizable offence and the same is mandated under Section 154 of Cr.P.C. However, some of the police officers are not registering the cases. In such circumstances, a remedy is provided under Section 154(3) of Cr.P.C for reporting the same to the higher officials. In this case, it appears that the petitioner has lodged a complaint before the first respondent on 26.11.2023 and a complaint before the Deputy Commissioner of police on 28.11.2023. The complaint lodged before the Deputy Commissioner has been admitted by the Commissioner of Police in his report that it was treated as a current paper enquiry in C.No. 805/PG/DCP/North/MC/ 2023, dated 28.11.2023. However, the Deputy Commissioner instead of referring the complaint to the concerned police has advised the petitioner to approach the Central Crime Branch, Madurai City.

11. This Court, in the past three months have come across on the petition of civil nature forwarded by the higher police officials to the Central Crime Branch or to the Inspector of Police for conducting an enquiry. Those enquiries were treated as current paper enquiry by the respective police officers. Most of the cases referred as current paper



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enquiries or civil in nature. The guidelines/directions given by the

Honourable Supreme Court in ***Lalitha Kumari Vs Government of Uttar***

Pradesh and others reported in ***(2013) 14 SCR 801*** is misused in most of

the cases for interfering in civil disputes. In this case, the Deputy

Commissioner, who has dealt with the complaint on 28.11.2023 has felt

that the pecuniary value of the complaint is higher and therefore, it has to

be enquired only by the Central Crime Branch, Madurai City. It is not

known why he has not forwarded the complaint for an enquiry to the

Central Crime Branch. Instead, he appears to have advised the petitioner to

approach the Central Crime Branch, Madurai City. Thereafter, the

petitioner has approached the learned Judicial Magistrate No.II, Madurai

on 21.12.2023 and the learned Judicial Magistrate No.II, Madurai has

conducted an enquiry, satisfied with the nature of complaint, forwarded the

same for registration of FIR on 22.01.2024. The nature of complaint is of

demand of exorbitant interest, taking away the vehicles forcibly, which

needs to be investigated only by the first respondent. However, some

justification have been made for not registering the case on the ground on

pecuniary jurisdiction and the registration of FIR has been successfully

protracted for the past six months. In the meantime, it is reported that the

second respondent/the Inspector of Police, Central Crime Branch has found



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that the complaint is civil in nature. Now, the case has been registered after the orders of the learned Judicial Magistrate No.II, Madurai on 26.07.2024.

12.Demand of exorbitant interest is a very big menace to the Society and this related offence are more reported in southern Districts. Considering the number of deaths due to demand of exorbitant interest, the Government of Tamil Nadu has brought in separate legislature "The Tamil Nadu Prohibition of Charging of exorbitant Interest Act, 2003". The respondent police, who is expected to take action by registering a case as against the accused, are not taking action, hand in glove with rich, powerful and influential financiers. Therefore, the purpose, for which, this Act has been brought in has not been achieved. We are waking up only when some tragedies have been taken place. This Court has also had an occasion to deal with such an allegation, wherein, the entire family of five in number had committed suicide.

13.Though the FIR has been registered now, considering the manner, in which, this petitioner's complaint was dealt by the respondent police, this Court *suo motu* implead the Director General of Police, Chennai as a respondent and direct him to withdraw the case in Crime No.



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798 of 2024 from the file of the first respondent and to transfer the same either to CBCID, Madurai or to CBCID, Virudhunagar.

14. With the above directions, this Criminal Original Petition is disposed of.

08.08.2024

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

- 1.The Inspector of Police,
Thallakulam Police Station
Law and Order,
Madurai City.
- 2.The Inspector of Police,
Central Crime Branch(CCB),
Madurai,
Madurai City.
- 3.The Director General of Police,
Chennai.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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B.PUGALENDHI,J

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Pre-delivery Order made in
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