



WEB COPY

Crl.RC.(MD)No.1



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 22.10.2024

Pronounced on : 28.10.2024

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.RC.(MD)No.1015 of 2024

P.Kannagi

... Petitioner

Vs.

1.The Inspector of Police,
Kottampatti Police Station,
Madurai District.

2.Rajangam

... Respondents

Prayer : This Criminal Revision Case filed under Section 438 & 442 BNSS, to call for the records pertaining to the order dated 03.10.2024 made in Cr.M.P.No.3749 of 2024 on the file of the learned Judicial Magistrate, Melur and set aside the same.

For Petitioner : Mr.D.S.Haroon Rasheed

For R1 : Mr.K.Sanjai Gandhi,
Government Advocate(Crl.side)



ORDER

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This criminal revision case is directed against the order passed in Cr.M.P. No.3749 of 2024 dated 03.10.2024 on the file of the Court of the learned Judicial Magistrate, Melur, dismissing the petition filed under Section 156(3) Cr.P.C./Section 175(3) BNSS.

2.It is evident from the records that the petitioner has filed a petition before the learned Magistrate under Section 156(3) Cr.P.C. / Section 175(3) BNSS seeking a direction to the respondent Police to register a case and the same was taken on file in Cr.M.P.No.3749 of 2024 and the learned Magistrate upon perusing the petitioner's affidavit and the petition and on hearing the arguments of the petitioner side, has passed the impugned order on 03.10.2024 dismissing the said petition.

4.The learned counsel appearing for the petitioner would submit that the learned Magistrate has dismissed the petitioner's petition filed under Section 156(3) Cr.P.C. / 175(3) BNSS, only on the ground that the petitioner has failed to produce relevant records to show that he complied with the mandatory requirements as contemplated under Section 173(4) BNSS. He would submit that the petitioner has failed to produce the copy of the complaint and proof of service on the Superintendent of Police, before



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the learned Magistrate due to oversight, that the petitioner in the petition filed under Section 156(3) Cr.P.C./175(3) BNSS has specifically indicated that he has sent the complaint to the Superintendent of Police and that since the related documents were not filed before the learned Magistrate, the petition was ordered to be dismissed. The learned counsel has produced a memo along with copy of the complaint sent to the Superintendent of Police, postal receipt and postal acknowledgment and would request the Court to remit the matter back to the learned Magistrate for deciding the petition filed under Section 156(3) Cr.P.C./175(3) BNSS afresh.

5.It is seen from the records that the petitioner has sent the complaint to the Superintendent of Police and the same came to be received by the Office of the Superintendent of Police on 15.09.2024. The petitioner has filed the petition under Section 156(3) Cr.P.C./175(3) BNSS before the concerned Court on 19.09.2024 and the impugned order came to be passed on 03.10.2024.

6.As rightly contended by the learned counsel appearing for the petitioner, the learned Magistrate by specifically observing that the petitioner has not complied with the mandatory requirements as contemplated under Section 173(4) BNSS, has held that the petitioner is not entitled to get the relief claimed and dismissed the petition.



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7.Considering the above facts and circumstances and also taking note of the fact that the petitioner has sent the complaint to the Superintendent of Police and the same came to be received by the Office of the Superintendent of Police as evident from the documents now produced, this Court is of the view that the matter has to be remitted back to the learned Magistrate for fresh consideration and to pass orders in accordance with law.

8.In the result, this criminal revision case is allowed and the impugned order passed by the learned Judicial Magistrate, Melur, dated 03.10.2024 in Cr.M.P.No.3749 of 2024 is hereby set aside and the matter is remitted back to the learned Judicial Magistrate, Melur and the learned Magistrate is directed to consider the same and pass orders in accordance with law. Registry is directed to return the copy of the complaint, postal receipt, postal acknowledgment produced along with memo to the learned counsel for the petitioner.

28.10.2024

NCC :yes/No
Index :yes/No
Internet:yes/No
gns



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To

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- 1.The Judicial Magistrate, Melur
- 2.The Inspector of Police,
Kottampatti Police Station,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Crl.RC.(MD)No.1



K.MURALI SHANKAR,J.

gns

Pre-Delivery Order made in
Crl.RC.(MD)No.1015 of 2024

28.10.2024