



W.P(MD)No.30079 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.01.2024

CORAM :

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P(MD)No.30079 of 2023

K.K.Karthick Kumar

...Petitioner

Vs.

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

**2. The Inspector of Police,
Theppakulam Police Station,
Madurai City.**

3. M.S.Moosa Mubaraq Ali

4. R.Rajesh Kannan

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the second respondent to take appropriate legal action on the petitioner's complaint dated 05.04.2023 against the third and fourth respondents within the stipulated time fixed by this Court.



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For Petitioner : Mr.K.Sathish Kumar
For R1 to R3 : Mr.T.Senthil Kumar
Additional Public Prosecutor

ORDER

The Petitioner had filed this Writ Petition seeking direction against the second Respondent to initiate legal action against the Respondents 3 and 4 by the Respondents 1 and 2 based on the complaint of the Petitioner.

2. The learned Counsel for the Petitioner submits that the Petitioner is running a two wheeler workshop in Meenakshi Complex. The Petitioner had entered into a sale agreement to purchase the property from the Respondents 3 and 4. Subsequently, after parting with Rs.6,00,000/- (Rupees Six Lakh only) from the Petitioner, the Respondent No.3 had sold the property to the third party for which the Petitioner was forced to give a complaint. The said complaint was not considered by the Respondent No.2 and it was closed as per the proceedings of the Respondent No.2, dated 29.11.2022. The learned Counsel for the Petitioner invited the attention of this Court to the



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proceedings closing the complaint of the Petitioner by the Respondent No.2, wherein he had stated that on enquiry he had come to know the Respondents No.3 and 4 had played fraud on the Petitioner. Still the Respondent No.2 had closed the complaint on the ground that the complainant was insisting to include the name of the third party also in the complaint which was refused by the Respondent No.2. Therefore, he had arrived at a conclusion that the Petitioner had not co-operated and he had closed the complaint. The learned Counsel for the Petitioner relies on the said observation of the Respondent No.2 that on enquiry, they had come to know about the fraud played on the Petitioner by the Respondents No.3 and 4.

3. The learned Additional Public Prosecutor submitted that a suit in O.S.No.134 of 2021 is pending between the Petitioner and the Respondents No.3 and 4 before the learned 5th Additional District Court, Madurai. It is the submission of the learned Additional Public Prosecutor that when a civil case is pending, it is not appropriate for the Petitioner to take legal action on the Respondents No.3 and 4 by filing complaints repeatedly. The Police officers had rejected the complaint on the ground that the civil dispute is already pending. The Petitioner still by ignoring



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those finding, had approached this Court for filing a Writ Petition seeking Writ of Mandamus against the Police officers to register the case involving in a civil dispute.

4. Considering the fact that the Petitioner is a tenant and the Respondents No.3 and 4 obtained money from the Petitioner and had sold the property to the third party. The Petitioner had also approached the Civil Court. The observation of the Investigation Officer from the enquiry is that the Respondents No.3 and 4 had taken money from the Petitioner and cheated him, which is an advantageous to the Petitioner. Still the civil dispute is pending, the finding of the Respondent No.2 is that till the civil dispute is resolved to the Court of law cannot be faulted by this Court. Under these circumstances, the submission of the learned Additional Public Prosecutor, is found to be justified, since the civil suit is pending, the petitioner filing the complaint repeatedly before the Police Officials is not a proper approach. Hence, this Court cannot issue Mandamus to the Police officers, since the matter is civil dispute in nature.

5. Recording the said submission, this Writ Petition is dismissed as



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not maintainable. No costs.

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Internet:Yes
Index :Yes/No
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To

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Madurai City,
Madurai.
2. The Inspector of Police,
Theppakulam Police Station,
Madurai City.



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SATHI KUMAR SUKUMARA KURUP, J.

jbr

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