



Crl.O.P.(MD)No.23364 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.12.2024

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD)No.23364 of 2023

Rahumath Ali

... Petitioner

Vs.

1.The Superintendent of Police,
Office of the Superintendent of Police,
Tirunelveli District.

2.The Inspector of Police,
O/o. The Inspector of Police,
Thalaiyuthu Police Station,
Tirunelveli District.

... Respondents/Defacto Complainant

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the closure report dated 22.11.2023 filed by the second respondent and set aside the same in the light of the order in Crl.M.P.No.27236 of 2023, dated 27.10.2023 passed by the Learned Judicial Magistrate No.III, Tirunelveli under Section 156(3) of Cr.P.C. and consequently direct the second respondent to register the complaint.



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For Petitioner : Mr.S.Nihar Ali

For Respondents : Mr.B.Thanga Aravindh
Government Advocate (Crl. side)

ORDER

This petition has been filed challenging the order passed by the learned Judicial Magistrate No.III, Tirunelveli in Crl.M.P.No.27236 of 2023, disposing of the application filed by the petitioner under Section 156(3) of Cr.P.C.

2.Heard the learned counsel on either side.

3.In the considered view of this Court, the order passed by the Court below is on the face of it illegal. The Court was dealing with an application under Section 156(3) of Cr.P.C. While dealing with such an application, the Court is only expected to see if the complainant has complied with the procedure under Section 154 of Cr.P.C. and if so, must look into the averments and see if a cognizable offence is made out. If a



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cognizable offence is made out, the Magistrate has to direct an FIR to be registered by the police for conducting investigation.

4.The Court below, for some reason, has stated that a preliminary enquiry must be conducted by the Investigation Officer and if a cognizable offence is disclosed, the police officer must register an FIR and proceed further with the investigation. If a cognizable offence is not made out, a closure report must be filed. If the complainant is aggrieved by the same, he must work out his remedy in accordance with the Judgment of this Court in ***Sugesan Transport Private Limited case***.

5.The learned Magistrate has not properly understood the scope of the Judgment in ***Sugesan Transport Private Limited case***. The Hon'ble Division Bench of this Court held that when the complainant has fulfilled the procedure under Section 154 of Cr.P.C. and an application is filed before the Magistrate under Section 156(3) of Cr.P.C and a cognizable offence is made out, the Magistrate has to order for the registration of the First Information Report. The Magistrate cannot ask the police to



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conduct a preliminary enquiry and direct the complainant to work out his remedy as per the Judgment of Hon'ble Division Bench of this Court.

6.In view of the above, the order dated 27.10.2023 passed by the learned Judicial Magistrate No.III, Tirunelveli in Crl.M.P.No.27236 of 2023, is hereby set aside.

7.If the dispute subsists even today, it is left open to the petitioner to file a fresh application before the learned Magistrate along with the copy of this order and work out his remedy in accordance with law.

8.In the result, this Criminal Original Petition is allowed with the above directions.

06.12.2024

Index: Yes/No
Internet: Yes/No
sjj

To

1.The Judicial Magistrate No.VI, Madurai.

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- 2.The Superintendent of Police,
Office of the Superintendent of Police,
Tirunelveli District.
- 3.The Inspector of Police,
Thalaiyuthu Police Station,
Tirunelveli District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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N.ANAND VENKATESH.J.,

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