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Crl.O.P.No.1732 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2025

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.O.P.No.1732 of 2025

R.Deepak

... Petitioner

Vs.

The State represented by
The Inspector of Police,
K-4 Anna Nagar Police Station,
Chennai – 600 040.

... Respondent

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to direct the respondent-Police to comply the order passed by the learned Metropolitan Magistrate-V, Egmore, in Crl.M.P.No.1243 of 2024 dated 24.06.2024 within a stipulated period.

For Petitioner : Mr.A.Vijayakannan

For Respondent : Mr.S.Vinoth Kumar
Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition is filed to direct the respondent-Police to comply the order passed by the learned Metropolitan Magistrate-V, Egmore, in Crl.M.P.No.1243 of 2024 dated 24.06.2024 within a stipulated period.



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2. According to the petitioner, he had invested a sum of Rs.14,00,000/- in S.S.Kuberan Consultant Private Limited since Sumithra, Director and Dhanraj, Manager of the said Company have promised the petitioner to repay enormous interest for the investment amount. The said office was functioning till May 2023. From June 2023, he was unable to contact the said persons and the office was closed. Hence, the petitioner has lodged a complaint on 19.07.2023 before the respondent-Police. Since there was no response from the respondent-Police, he filed a petition under Section 156(3) Cr.P.C in Crl.M.P.No.1243 of 2024 and the same was allowed. The learned Magistrate by order dated 24.06.2024 directed the respondent-Police to conduct preliminary investigation and proceed with the case in accordance with law, if *prima facie* case is made out. Thereafter, the respondent-Police conducted preliminary enquiry and closed the complaint. Hence, the present petition.

3. Learned Government Advocate (Crl.Side) appearing for the respondent-Police submitted that as per the directions of the learned Magistrate, the respondent-Police called the petitioner for preliminary enquiry, during the enquiry, on 14.07.2024, the petitioner/complainant



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and the accused one Sumithra had appeared before the respondent Police

and the accused had admitted to refund the amount, which was accepted by the petitioner. While that being so, she had paid a sum of Rs.1,00,000/- and seeks further time to pay the balance amount. Since settlement was arrived at between the parties, the respondent-Police closed the complaint.

4. Per contra, the learned counsel appearing for the petitioner submitted that based on the directions given by the learned Magistrate, the respondent-Police called the petitioner and the accused for preliminary enquiry on 14.07.2024 and the accused bargained before the police officials and admitted to refund the sum of Rs.8,25,000/- after deducting the profits paid to the petitioner. Instead of registering the case against the accused, the respondent-Police threatened the petitioner to receive the said amount and to settle the matter. The petitioner has no other option except to accept the same. The said Sumithra has paid a total sum of Rs.1,00,000/- on various dates and she has not paid the balance amount till date.

5. On a perusal of the records, it is seen that the learned Magistrate



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directed the respondent-Police to conduct preliminary enquiry and if *prima facie* case is found they have to register the case. It is further seen that the dispute between the petitioner and the accused pertains to money transactions. The main defence taken by the petitioner is that the accused had cheated huge amount.

6. It is seen that the respondent Police closed the complaint, but they have not filed any negative report or referred charge sheet before the Magistrate concerned. It is the duty of the Police to communicate the closure report to the Magistrate concerned. In the case on hand, the respondent-Police have not communicated the same to the Magistrate concerned and they simply closed the complaint, which is against the provisions of law.

7. Needless to state that this is not the first case where the Police is not communicating the closure of the complaint to the Magistrate. In most of the cases, especially in cases involving money transactions, the Police are used to call the parties for enquiry and without proper enquiry, close the complaints for one reason or the other and they are not following the procedures. Therefore, the Director General of Police,



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Tamil Nadu, is directed to give suitable directions to their subordinates throughout the State that whenever the Police conduct enquiry/ investigation and close the complaint on the ground that there is no *prima facie* case and no materials, immediately they will have to intimate the same to the jurisdictional Magistrate. They cannot close the complaint arbitrarily and kept in the cold storage and they will have to send the report to the Magistrate concerned and the Magistrate concerned has to send notice to the *de-facto* complainant so that the *de-facto* complainant will have an opportunity to file a protest petition. In the case on hand, the procedure followed by the respondent-Police is against law as they have violated the statutory provisions contained in BNSS, 2023 and also the Police Standing Manual. Therefore, hereinafter, the Police Department is directed to meticulously follow the statutory provisions, failing which, the higher officials shall take departmental action against those officers who fail to follow the procedures.

8. With the above observations and directions, this Criminal Original Petition is disposed of.

24.01.2025



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Index : Yes/No

Neutral Citation Case : Yes/No

Speaking Order : Yes/No

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To

1. The Metropolitan Magistrate -V,
Egmore, Chennai.
2. The Inspector of Police,
K-4 Anna Nagar Police Station,
Chennai – 600 040.
3. The Public Prosecutor,
High Court, Madras.

Copy to:

The Director General of Police,
Tamil Nadu.



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P.VELMURUGAN, J

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