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Crl.RC.No.224 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2025

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.RC.No.224 of 2025

G.Murugesan

... Petitioner

Vs.

1. The Inspector of Police

Mettur Police Station, Mettur, Salem District

2. Deputy Superintendent of Police

Office of Deputy Superintendent of Police

Mettur, Salem District

... Respondents

Prayer: Criminal Revision Case filed under under Section 397 read with 401 of Criminal Procedure Code/Section 438 and 442 of Bharatiya Nagarik Suraksha Sanhita, 2023, praying to set aside the order dated 19.07.2024 in C.M.P.No.186 of 2024 on the file of the Special District Judge, SC & ST (PoA) Act, Salem and consequently direct the respondent to register the FIR based on the complaint dated 18.12.2023 given by the petitioner.

For Petitioner

: Mr.L.Ramanathan

For Respondents

: Mr.S.Sugendran

Additional Public Prosecutor



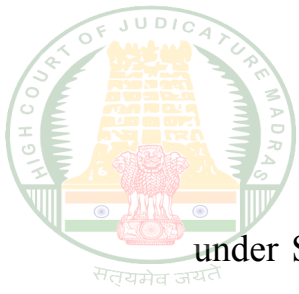
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ORDER

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This Criminal Revision Case has been filed by the petitioner to set aside the order dated 19.07.2024 in C.M.P.No.186 of 2024 on the file of the Special District Judge, SC & ST (PoA) Act, Salem and consequently direct the respondent to register FIR based on the complaint dated 18.12.2023 given by the petitioner.

2. The case of the petitioner is that, this Court vide order dated 19.04.2023 in W.P.No.4368 of 2023 filed by the local Panchayat, had directed the Revenue Divisional Officer, Mettur to consider the representation regarding encroachment of common pathway and cancellation of Patta obtained by a Revenue Inspector's mother. Accordingly, the petitioner along with the parties appeared before Mr.Thanikachalam, the then Revenue Divisional Officer for enquiry on 12.12.2023 and when the petitioner sat, the said Revenue Divisional Officer, humiliated the petitioner by mentioning his caste name in front of other persons. Hence, the petitioner filed a petition in C.M.P.No.186 of 2024



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under Section 156(3) of Cr.P.C. before the Special District Judge, SC & ST

(PoA) Act, Salem, seeking direction directing the second respondent to register FIR against the concerned Revenue Inspector, who aided to obtain patta for common pathway and further to register FIR against the then Revenue Divisional Officer, Mettur namely Mr.Thanikachalam and the then Inspector of the first respondent police station namely Mr.Subramani, who colluded with the Revenue Inspector and committed the offences under the SC/ST Act. The said petition was dismissed by the learned Special Judge by order dated 19.07.2024. Hence, challenging the same, the present revision is filed.

3. The contention of the petitioner is that though the witnesses have spoken about the incident, the learned Special Judge failed to consider the same and dismissed the petition.

4. Heard both sides and perused the materials available on record.

5. A perusal of records shows prima facie materials. Even the witnesses have corroborated the allegations. However, the Special Judge for the reasons



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best known to him, has dismissed the petition filed by the petitioner.

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6. It is seen that in some of the matters, the Judicial Officers are reluctant to take up the matters of this nature despite the availability of prima facie case and materials. It is for the Investigating Agency to investigate the matter and to file charge sheet based on the materials collected during investigation.

7. It is pertinent to note here the recent decision of the Hon'ble Supreme Court in the case of ***OM Prakash Ambadkar Vs. State of Maharashtra*** reported ***in 2025 SCC OnLine SC 238*** wherein it is held as follows:

25. In fact, the Magistrate ought to direct investigation by the police only where the assistance of the Investigating Agency is necessary and the Court feels that the cause of justice is likely to suffer in the absence of investigation by the police. The Magistrate is not expected to mechanically direct investigation by the police without first examining whether in the facts and circumstances of the case, investigation by the State machinery is actually required or not. If the allegation made in the complaint are simple, where the Court can straightaway proceed to conduct the trial, the Magistrate is expected to record evidence and proceed further in the matter, instead of passing the buck to the



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police under Section 156(3) of the Cr.P.C. Ofcourse, if the allegations made in the complaint require complex and complicated investigation which cannot be undertaken without active assistance and expertise of the State machinery, it would only be appropriate for the Magistrate to direct investigation by the police authorities. The Magistrate is, therefore, not supposed to act merely as a Post Office and needs to adopt a judicial approach while considering an application seeking investigation by the police.

...

34. In light of the judicial interpretation and evolution of Section 156(3) of the Cr.P.C. by various decisions of this Court as discussed above, it becomes clear that the changes introduced by Section 175(3) of the BNSS to the existing scheme of Section 156(3) merely codify the procedural practices and safeguards which have been introduced by judicial decisions aimed at curbing the misuse of invocation of powers of a Magistrate by unscrupulous litigants for achieving ulterior motives.

35. Further, by requiring the Magistrate to consider the submissions made by the concerned police officer before proceeding to issue directions under Section 175(3), BNSS has affixed greater accountability on the police officer responsible for registering FIRs



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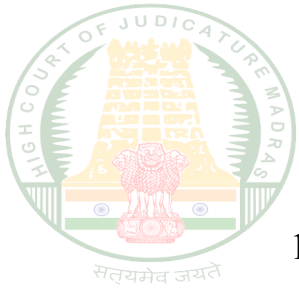
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under Section 173. Mandating the Magistrate to consider the submissions of the concerned police officer also ensures that the Magistrate applies his mind judicially while considering both the complaint and the submissions of the police officer thereby ensuring that the requirement of passing reasoned orders is complied with in a more effective and comprehensive manner.

8. In this case, a reading of the complaint, enquiry report and the statements of the witnesses shows prima facie allegations and materials to give a direction to the police to register the case and to investigate the matter.

9. Therefore, the order passed by the Special District Judge, SC & ST (PoA) Act, Salem, in C.M.P.No.186 of 2024 dated 19.07.2024, is set aside.

10. The first respondent police is directed to register a case based on the complaint dated 18.12.2023 given by the petitioner and proceed with the investigation and after completion of investigation, file charge sheet within a period of three months from the date of registration of FIR.



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11. With the above directions, this Criminal Revision Case is allowed.

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Index : Yes / No
Speaking Order : Yes / No
Neutral Citation Case : Yes/No
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To

1. The Special District Judge, SC & ST (PoA) Act
Salem
2. The Inspector of Police
Mettur Police Station
Mettur, Salem District
3. Deputy Superintendent of Police
Office of Deputy Superintendent of Police
Mettur, Salem District
4. The Public Prosecutor
High Court of Madras



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P.VELMURUGAN. J.

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