



Crl.O.P.No.17058 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.17058 of 2024
and Crl.M.P.No.10257 of 2024

Ray Martin

... Petitioner

Vs.

1. Fairmac Shipping Transport Services Pvt. Ltd.,
Rep by its authorised signatory Udaya Shankar
No.4, Moore Street, Chennai – 600 001.

2. Dr.Nagachetan Bangalore
3. Radhika Rao

4. Lucident Private Limited,
6, Brearley Avenue, Old Brook,
Milton Keynes Mk6 2nr,
Ace Worldwide Vaswani Inc,
1652, N Kraemer Blvd Anaheim Ca 92806,
United Kingdom.

5. Sunil Buwa
6. Joanna Castillo

... Respondents

Prayer: Criminal Original petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to set aside the order 16.02.2024 in Crl.R.C.No.44 of 2023 passed by the learned XXII Additional Judge, City Civil Court, Chennai in Crl.M.P.No.12444 of 2022, order dated 20.12.2022 passed by the learned VII Metropolitan Magistrate, George Town, Chennai.



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Crl.O.P.No.17058 of 2024

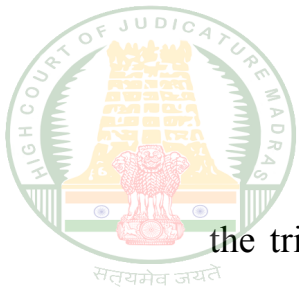
For Petitioner : Mr.A.Muraleedharun

For Respondents : Mr.A.Ashwin Kumar

ORDER

This petition has been filed challenging the order dated 16.02.2024 passed by the learned XXII Additional Judge, City Civil Court, Chennai in Crl.R.C.No.44 of 2023, thereby allowed revision filed by the first respondent and also directed the trial Court to take cognizance on the complaint lodged by the first respondent and proceed further in accordance with law.

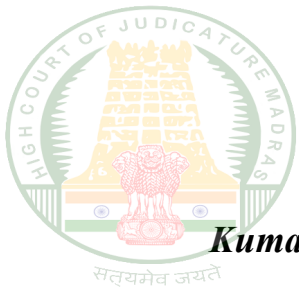
2. The first respondent lodged complaint before the jurisdictional police station as against the petitioner and others. However no action has been taken and the complaint was closed. Therefore, the first respondent had no other option, approached the learned VII Metropolitan Magistrate, George Town, Chennai, by way of private complaint in Crl.M.P.No.12444 of 2022. However, the learned Magistrate had gone into the merits of the complaint and dismissed the same. Aggrieved by the same, the first respondent preferred a revision before the appellate Court and the same was allowed, thereby directing



Crl.O.P.No.17058 of 2024

the trial Court to take cognizance on the complaint lodged by the first respondent, on the ground that the first respondent has made out prima facie case to take cognizance as against the accused persons 1 to 6. Challenging the same, the present petition has been filed.

3. The learned counsel appearing for the petitioner would submit that it is nothing but forum shopping since the complaints lodged by the petitioner were already enquired by the several authorities and closed the same as no cognizable offence is made out. In fact, the petitioner initially lodged complaint before the Commissioner of Police on 22.03.2021 and the same was closed by the closure report dated 10.04.2021. Once again the petitioner for the very same set of allegations lodged another complaint before the Commissioner of Police, Mumbai on 28.10.2021. Similar complaint was also lodged before the Joint Commissioner of Police, Ambattur and also before the K-4 Police Station, Anna Nagar. Finally the first respondent filed private complaint before the learned VII Metropolitan Magistrate, George Town, Chennai. The learned Magistrate rightly dismissed the petition on the ground that no cognizable offence is made out. In support of his contention, he relied upon the judgment reported in **2022 (7) SCC 124** in the case of *Vijay*



Crl.O.P.No.17058 of 2024

Kumar Ghai and ors Vs. State of West Bengal and ors., in which the

WEB CON Hon'ble Supreme Court of India held that multiple complaints by same party against same accused in respect of same incident is impermissible and there can be no second FIR where information concerns same cognizable offence alleged in first FIR or same occurrence or incident which gives rise too ne or more cognizable offences. Once FIR postulated by provisions of Section 154 of Cr.P.C., has been recorded, any information received after commencement of investigation cannot form basis of second FIR.

4. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

5. On perusal of records revealed that, the first respondent lodged complaint before the jurisdictional police and the same was closed and no FIR has been registered as against the petitioner. According to the criminal procedures, if the police did not take any action on the complaint, the complainant can very well approach the jurisdiction Court by way of private petition. Therefore, the first respondent rightly approached the Magistrate Court by filing private



Crl.O.P.No.17058 of 2024

complaint. Therefore, the above judgment cited by the learned counsel appearing for the petitioner is not applicable to the facts of the case.

6. Further, though the learned Magistrate had gone into the merits of the complaint, dismissed the same. The learned Magistrate ought not to have gone into the merits of the complaint while taking cognizance. Further the first respondent has made out prima facie case to take cognizance. Therefore, the Revision Court rightly allowed the revision and directed the trial Court to take the complaint on file and after issuance of summons to the accused dispose the same on merits and in accordance with law. This Court finds no infirmity or illegality in the order passed by the Revision Court and the present petition is liable to be dismissed.

7. Accordingly, the Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is closed.

07.02.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
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Crl.O.P.No.17058 of 2024

G.K.ILANTHIRAIYAN, J.

rts

To

1. The XXII Additional Judge,
City Civil Court, Chennai

2. The VII Metropolitan Magistrate,
George Town, Chennai.

Crl.O.P.No.17058 of 2024
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