



CrI.O.P.No.19456 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.07.2025

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CrI.O.P.No.19456 of 2025

A.J.Gopi

... Petitioner

Vs.

1. V.G.Balaji

2. Ezhumalai

3. V.P.Dilli

... Respondents

Prayer: Criminal Original Petition filed under Section 528 of B.N.S.S., to set aside the docket order passed by the learned District Munsif cum Judicial Magistrate, Pallipattu in the unnumbered C.C.Filing No.1570 of 2025 dated 25.04.2025 and thereby direct the learned District Munsif cum Judicial Magistrate, Pallipattu to take the complaint on file and proceed in accordance with the provision of Chapter XVI of BNS.

For Petitioner

: Mr.A.R.Suresh



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ORDER

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This Criminal Original Petition has been filed by the petitioner to set aside the docket order passed by the learned District Munsif cum Judicial Magistrate, Pallipattu in the un-numbered C.C.Filing No.1570 of 2025 dated 25.04.2025 and thereby direct the learned District Munsif cum Judicial Magistrate, Pallipattu to take the complaint on file and proceed in accordance with the provision of Chapter XVI of BNS.

2. The learned counsel for the petitioner submitted that originally the petitioner had lodged a complaint before the Sub Inspector of Police, Pothatturpettai Police Station on 05.08.2024 against the respondents. However, since the police refused to take the complaint, the petitioner approached the Judicial Magistrate, Pallipattu, by way of filing a complaint under Section 156(3) Cr.P.C./175(3) of BNSS in C.M.P.No.2894 of 2024 and the learned Magistrate, by order dated 28.10.2024, directed the police to conduct enquiry and register FIR, if the enquiry discloses cognizable offence. The police had



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neither examined the necessary witnesses nor complied with the direction of

the Magistrate and simply they closed the complaint as 'civil in nature'. The closure report was not served on the petitioner through Court before the closure report was accepted by the Court, but it was served only through post. Hence, the petitioner filed a complaint before the learned District Munsif cum Judicial Magistrate, Pallipatu, under Section 223 of BNSS/Section 200 Cr.P.C stating that he was cheated by the accused, but the learned Magistrate returned the complaint by stating that the Court had earlier passed an order under Section 175(3) of BNSS/156(3) Cr.P.C. on 28.10.2024 and closure report has already been filed by the police and connected civil suits are pending before various courts and further stated that the closure report was not challenged by the petitioner and hence, by raising the question of maintainability, returned the same without even numbering the complaint. Hence, challenging the same, the present petition is filed.

3. Heard the learned counsel for the petitioner and perused the materials



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available on record.

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4. It is seen that though the petitioner had already filed a complaint under Section 156(3) Cr.P.C., subsequently, without registering the case, the police has sent a closure report. The Court also without summoning the complaint, accepted the closure report. Hence, the petitioner filed a petition before the Magistrate under Section 200 Cr.P.C. The learned Magistrate without even numbering the same, has returned the complaint by mentioning the closure report filed by the police.

5. It is pertinent to state that when a private complaint is filled by a litigant after exhausting the remedy under Section 156(3) Cr.P.C., it is the duty of the Magistrate to take the complaint on file and to proceed with the same in accordance with law after scrutiny. It is the option of the litigants. They can lodge a complaint before the police and if the police refused to register the complaint, they can always approach the Magistrate by way of private complainant under Section 223 of BNSS and in the private complaint, it is for



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the complainant to prove his/her case.

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6. Therefore, the docket order passed by the learned District Munsif cum Judicial Magistrate, Pallipattu, is set aside.

7. The Magistrate is directed to take the complaint on file and proceed further in accordance with law.

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

14.07.2025

Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No

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To

The District Munsif cum Judicial Magistrate,
Pallipattu



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