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CrI.O.P.No.27163 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2025

CORAM:

THE HONOURABLE MR JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.27163 of 2023 and
CrI.M.P.Nos.18855 and 18856 of 2023

1. K.I.Logesh Krishnan
2. K.Indrani
3. M.Kannan

... Petitionerss

Vs.

1. V.J.Priyanka
2. The State represented by
Inspector of Police, All Women Police Station
Tambaram
CrI.M.P.No.2320/21 on the file J.M., Tambaram

... Respondent

Prayer: Criminal Original Petition filed under Section 528 of BNSS., to call for the records in C.C.No.111/2022, on the file of the learned Judicial Magistrate-I at Tambaram and quash the same.

For Petitioners : Ms.S.Alagammai

For Respondents : Mr.K.M.D.Muhilan

Additional Public Prosecutor for R2

Mr.N.Sivaprakash for R1

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.111 of 2022, on the file of the learned Judicial

Magistrate No.I, Tambaram.

1/8



2. The learned counsel for the petitioners submitted that the 1st respondent is the wife of the 1st petitioner and daughter-in-law of the petitioners 2 and 3. The 1st respondent had filed a private complaint before the Judicial Magistrate No.I, Tambaram, under Section 200 of Cr.P.C., against the petitioners for the offence under Section 498(A) of IPC read with Sections 3 and 4 of the Dowry Prohibition Act, 1961. The learned Magistrate, after examining the complainant and witnesses, passed an order dated 11.10.2021, forwarding the complaint to the 2nd respondent police with a direction to conduct an enquiry under Section 202 of Cr.P.C. and to file a report within a period of two months.

3. The contention of the learned counsel for the petitioners is that without any report being filed by the 2nd respondent police, the learned Magistrate took cognizance of the complaint in C.C.No.111 of 2022 and issued summons to the petitioners. His further contention is that there are several contradictions in the version of the complainant. In the private complaint, the complainant has made allegations that 10 sovereigns of jewels were taken by the 1st accused, whereas in the divorce proceedings, she has demanded 40 sovereigns of jewels. Hence, the present petition has been filed for the relief as stated in the opening paragraph.

4. The learned counsel for the 1st respondent/complainant submitted



CrI.O.P.No.27163 of 2023

that admittedly, the learned Magistrate, by order dated 11.10.2021, had directed the 2nd respondent police to conduct an enquiry and to file a report within a period of two months and since the report was not filed, the learned Magistrate, based on the materials available, proceeded further and ordered to issue summons to the petitioners. Therefore, there is no infirmity in the order passed by the learned Magistrate.

5. At this juncture, the learned counsel for the petitioners submitted that when the Magistrate had directed the police to conduct an enquiry and to file a report, without there being any enquiry report, the learned Magistrate cannot rely on the materials available and exercise the option of issuance of summons. In support of this contention, the learned counsel for the petitioners, relied on the decision of the Hon'ble Supreme Court in the case of *Shiv Jatia Vs. Gian Chand Malick & Others* reported in **2024 INSC 142**.

6. The learned Additional Public Prosecutor, appearing for the 2nd respondent police submitted that admittedly, the learned Magistrate, by order dated 11.10.2021, had directed the 2nd respondent police to conduct an enquiry under Section 202 of Cr.P.C. and to file a report. However, since the parties did not co-operate in the enquiry, the 2nd respondent was unable to file the enquiry report. The non co-operation on the part of the parties, was duly intimated to the learned Magistrate by a report dated 07.03.2024.



However, he fairly conceded that no report was filed under Section 202 of Cr.P.C. and thereby, an enquiry under Section 200 of Cr.P.C. has to be conducted.

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

8. Admittedly, the 1st respondent had filed the private complaint in Cr.L.M.P.No.2320 of 2021, under Section 200 of Cr.P.C., before the learned Judicial Magistrate No.I, Tambaram. The learned Magistrate, after examining the complainant and the witnesses, by order dated 11.10.2021, had directed the 2nd respondent police herein, to conduct an enquiry under Section 202 of Cr.P.C. and to file a report within a period of two months. Though the report was not filed by the 2nd respondent police, the learned Magistrate proceeded to take cognizance of the complaint and ordered for issuance of summons. As rightly relied on by the learned counsel for the petitioners, the Hon'ble Supreme Court, in the case of **Shiv Jatia** (supra) has held as under:

“11. After recording the evidence of the three witnesses and perusing the documents on record, the learned Magistrate passed the order calling for the report under Section 202 of the Cr.PC. He postponed the issue of the process. The learned Magistrate ought to have waited until the report was received. He had an option of conducting an inquiry contemplated by sub-section (1) of Section 202 of the Cr.PC himself due to the delay on the



part of the Police in submitting the report. But. he did not exercise the said option. For issuing the order of summoning, the learned Magistrate could not have relied upon the same material which was before him on December 2011 when he passed the order calling for the report under Section 202 of the Cr.PC. The reason is that, obviously, he was not satisfied that the material was sufficient to pass the summoning order. It is not the case of the 1 respondent-complainant that when the learned Magistrate passed the order dated 16th July 2013, there was some additional material on record. At least, the order of the learned Magistrate does not say so. The order does not even consider the earlier order dated 15th December 2011 calling for the report under sub-section (1) of Section 202 of the Cr.PC. The order issuing process has drastic consequences. Such orders require the application of mind. Such orders cannot be passed casually. Therefore, in our view, the learned Magistrate was not justified in passing the order to issue a summons." (emphasis supplied by this Court)

9. In view of the above, the complaint in C.C.No.111 of 2022, on the file of the learned Judicial Magistrate No.1, Tambaram, is quashed and consequently, the order of issuance of summons is also quashed and the matter is remitted to learned Judicial Magistrate No.1, Tambaram, at the stage of the complaint in CrI.M.P.No.2320 of 2021.



CrI.O.P.No.27163 of 2023

WEB COPY

10. The learned Judicial Magistrate No.1, Tambaram shall wait for the report from the 2nd respondent and the 2nd respondent shall comply with the order dated 11.10.2021, passed by the learned Magistrate in CrI.M.P.No.2320 of 2021 and send a report within a period of two months.

11. It is made clear that this order is passed only for the disposal of the Criminal Original Petition and this Court has not gone into the merits of the claim or rival claim between the parties. Therefore, the learned Magistrate shall proceed further in accordance with law based on the report to be filed by the 2nd respondent police under Section 202 of Cr.P.C. The parties are directed to co-operate in the enquiry.

12. With the above directions, this criminal original petition is disposed of. Consequently, the connected miscellaneous petitions are closed.

08.12.2025

ksa-2

Neutral Citation:Yes/No



CrI.O.P.No.27163 of 2023

To

1. The Judicial Magistrate No.I, Tambaram
2. The Inspector of Police, All Women Police Station
Tambaram
3. The Public Prosecutor
High Court of Madras



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CrI.O.P.No.27163 of 2023

A.D.JAGADISH CHANDIRA J.

ksa-2

CrI.O.P.No.27163 of 2023

08.12.2025