



Crl.OP(MD)No.1915 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.12.2025

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.O.P.(MD).No.1915 of 2024

D.Vijitha

... Petitioner

Vs.

1.State of Tamil Nadu,
Rep. by the Inspector of Police,
All Women Police Station,
Marthandam,
Kanyakumari District.

2.Viju

3. Yesudoss

4. Asbinvigi

... Respondents

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records in Cr.MP.No.3393/2023 on the file of the learned Judicial Magistrate No.I, Kuzhithurai, Kanyakumari District, and set aside the order date 02.08.2023 and the report dated 29.10.2023 on the file of the 1st respondent and consequently issue a direction to the 1st respondent herein viz Inspector of Police, AWPS Marthandam, to register an FIR.

For Petitioner : Mr.R.Ilayaraja

For R-1 : Mr.S.Ravi,
Additional Public Prosecutor



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ORDER

This Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, 1973, to call for the records relating to Cr.M.P.No.3393 of 2023 on the file of the learned Judicial Magistrate No.I, Kuzhithurai, Kanyakumari District, and to set aside the order dated 02.08.2023, whereby the petition filed by the petitioner under Section 156(3) Cr.P.C., 1973, was closed, and to consequently set aside the closure report dated 29.10.2023 submitted by the 1st respondent police, and to issue appropriate directions in accordance with law.

Preface:

2. The power conferred upon a Magistrate under Section 156(3) Cr.P.C., 1973, is neither administrative nor cosmetic. It is a judicial command, issued after application of mind, intended to set the criminal law in motion. Equally, the supervisory jurisdiction of this Court under Section 482 Cr.P.C., 1973, exists to ensure that such judicial commands are neither diluted nor rendered nugatory by mechanical orders or executive inaction.



3. The present case raises a significant question touching upon the procedural sanctity of Section 156(3) Cr.P.C., 1973, the duty of the police to comply with judicial directions, and the statutory right of a complainant to be heard before closure of a complaint.

Case of the Prosecution / Background Facts:

4. The petitioner is the legally wedded wife of the second respondent. Alleging that she was subjected to cruelty and dowry harassment, the petitioner initially approached the police seeking registration of an FIR. As no action was taken by the police, the petitioner invoked her statutory remedy under Section 154(3) Cr.P.C., 1973. Even thereafter, no FIR was registered. Left with no alternative, the petitioner approached the learned Judicial Magistrate No.I, Kuzhithurai, by filing a petition under Section 156(3) Cr.P.C., 1973, seeking a direction to the police to register an FIR and investigate the cognizable offences disclosed in her complaint.

5. The learned Magistrate, by order dated 10.04.2023, forwarded the complaint to the 1st respondent police under Section 156(3) Cr.P.C., 1973, for investigation, and specifically directed the



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police to file a report on or before 14.06.2023. However, without waiting for any report from the police and without affording any opportunity to the petitioner, the learned Magistrate, by the impugned order dated 02.08.2023, closed CrI.M.P.No.3393 of 2023 merely stating that investigation had already been ordered earlier.

6. Subsequently, when the petitioner approached this Court in CrI.O.P.(MD) No.23139 of 2023 seeking compliance of the Magistrate's order dated 10.04.2023, it was reported by the prosecution that the complaint had been "closed" on 10.11.2023, pursuant to an alleged enquiry. This Court disposed of the said Criminal Original Petition by directing supply of the closure report and granting liberty to the petitioner to work out her remedies in accordance with law.

Grounds for quash:

7. The petitioner challenges the impugned order dated 02.08.2023 on the following principal grounds:

The learned Magistrate acted mechanically and without application of mind in closing the Section 156(3) petition without



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perusing any report from the police. Once the learned Magistrate had forwarded the complaint for investigation and fixed a date for submission of report, he was duty bound to await the report and follow the procedure prescribed in law. Closure of the petition prior to submission of the police report has resulted in serious prejudice to the petitioner, depriving her of the statutory right to file a protest petition.

8. The police failed to comply with the judicial direction under Section 156(3) Cr.P.C., 1973, as no FIR was registered despite the learned Magistrate having found a *prima facie* cognizable offence. Even assuming a closure was contemplated, the same could not have been done without placing the report before the learned Magistrate and issuing notice to the complainant.

Submissions:

9. The learned counsel for the petitioner submitted that the order dated 10.04.2023 clearly demonstrates that the learned Magistrate had applied his mind and found that the complaint disclosed cognizable offences, warranting investigation. It was



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contended that once such a direction is issued under Section 156(3) Cr.P.C., 1973, the police are bound to register an FIR and investigate, and thereafter submit a report to the learned Magistrate. It was further submitted that the impugned order dated 02.08.2023 was passed without calling for the report, without knowing whether any FIR was registered, and without granting an opportunity to the petitioner.

10. The learned counsel submitted that the petitioner came to know about the alleged “closure” of the complaint only when the earlier Criminal Original Petition was taken up before this Court, and therefore her statutory right to object to the closure stood extinguished due to the premature closure of the learned Magistrate’s proceedings.

11. The learned Additional Public Prosecutor submitted that the police conducted an enquiry in accordance with the principles laid down in ***Lalita Kumari v. Govt. of U.P.***,¹ particularly in matrimonial disputes. It was contended that the complaint was enquired into and closed on merits and that the petitioner had been

¹ (2014) 2 SCC 1



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furnished with the report. It was further submitted that the petitioner has an alternative remedy before the learned Magistrate and that no interference is warranted.

Point for Consideration:

12. The following points arise for consideration:

(i) Whether the learned Judicial Magistrate was justified in closing the petition filed under Section 156(3) Cr.P.C., 1973, without waiting for the report from the police?

(ii) Whether the procedure adopted by the police and the learned Magistrate has resulted in denial of the petitioner's statutory right to object to the closure?

Analysis:

13. Section 156(3) Cr.P.C., 1973, empowers a Magistrate to direct investigation by the police after applying judicial mind. Such a direction is not an empty formality. In the present case, the order dated 10.04.2023 passed by the learned Magistrate clearly records satisfaction regarding the disclosure of cognizable offences and directs investigation with a specific timeline.



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14. Once such an order is passed, the learned Magistrate is required to:

- (a) Ensure compliance by the police;
- (b) Call for and peruse the report submitted pursuant to the direction;
- (c) If a closure report is submitted, issue notice to the complainant and afford an opportunity to file a protest petition.

15. The impugned order dated 02.08.2023 does none of the above. It merely records that the investigation was already ordered earlier and closes the petition. Such an approach defeats the very purpose of Section 156(3) Cr.P.C., 1973. Even assuming that the police conducted a preliminary enquiry, the same ought to have been placed before the learned Magistrate, and the petitioner ought to have been heard before any closure was accepted. The procedure adopted in the present case has resulted in a procedural vacuum, where neither the learned Magistrate exercised jurisdiction under Sections 200 or 203 Cr.P.C., 1973, nor was the petitioner afforded an opportunity to challenge the closure.



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16. This Court is of the considered view that the impugned order dated 02.08.2023 is unsustainable in law, having been passed in violation of settled principles of criminal procedure and natural justice. The premature closure of the Section 156(3) Cr.P.C., 1973 petition, without awaiting the police report and without hearing the petitioner, has caused manifest injustice and warrants interference by this Court. This Court reiterates that compliance with judicial orders under Section 156(3) Cr.P.C., 1973, is not optional, and any deviation therefrom erodes the confidence of litigants in the criminal justice delivery system. Procedural safeguards exist not as technicalities, but as guarantees against arbitrariness.

17. In the result, the Criminal Original Petition is allowed. The order dated 02.08.2023 passed in Cr.M.P.No.3393 of 2023 on the file of the learned Judicial Magistrate No.I, Kuzhithurai, is set aside. The closure report dated 29.10.2023 submitted by the 1st respondent police is also set aside. The matter is remanded to the learned Judicial Magistrate No.I, Kuzhithurai, to consider the complaint afresh in accordance with law, after calling for the report from the police and after affording due opportunity to the petitioner. The



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learned Magistrate shall pass appropriate orders on merits,
uninfluenced by any observations made herein.

15.12.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
Sml

To

- 1.The Judicial Magistrate No.I,
Kuzhithurai,
Kanyakumari District.
- 2.The Inspector of Police,
All Women Police Station,
Marthandam,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.

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