



W.P(MD)No.4567 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.03.2025

CORAM :

THE HON'BLE MR.JUSTICE P.DHANABAL

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Olanrewaju Fagbile
Managing Director of
M/s.Richpod Global Trade Limited,
Koleosho Close Akute,
Ogun State,
Nigeria.

... Petitioner

Vs

1. The Superintendent of Police,
Thoothukudi District.

2. The Inspector of Police,
District Crime Branch,
Thoothukudi District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the second respondent to comply with the order passed by the learned Judicial Magistrate No. IV, Thoothukudi in Cr.M.P.No. 22615/2024 dated



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25.11.2024 by registering an F.I.R pursuant to the petitioner's complaint dated 28.02.2024 and further direct him to proceed with the same in accordance with law.

For Petitioner : Mr.Anand R.

For Respondents : Mr.M.Sakthi Kumar
Government Advocate (Crl.Side)

ORDER

This Writ Petition has been filed seeking a direction to the second respondent to comply with the order passed by the learned Judicial Magistrate No. IV, Thoothukudi in Cr.M.P.No.22615 of 2024 dated 25.11.2024 by registering an F.I.R pursuant to the petitioner's complaint dated 28.02.2024 and further direct him to proceed with the same in accordance with law.

2.The learned Counsel for the petitioner would submit that the petitioner is the defacto complainant in this case and the petitioner is the power agent of the petition mentioned Company. The Principal company



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has been in the field of import of raw cashew nuts from Nigeria and the accused in the complaint are the Directors of Dhanvi enterprises and TDA Import and Export Private Limited and the importers having office at Gujarat. In the month of May 2023, they approached the Principal of the petitioner and requested to part with 232 metric ton worth of 274,593.36 USD and they made to believe that as soon as the imported goods reached the Tuticorin Port, through bank transaction, the payment would be settled completely. Believing the above said version, via two segments, through 9 containers during May and July 2023, the whole quantity as sought for by the accused persons, have been imported. Thereafter, the accused persons through mails, dated 27.07.2023 and 17.08.2023, requested the Principal to send the copies of the telex copies of Bill of Lading pertaining to the said import by saying that they wanted those copies so as to make use of the same for holding a physical inspection upon the goods imported. The petitioner also believing their version forwarded the Telex copies of the Bill of Lading. The said accused with the connivance of the officials of the Customs Department and with the support of his banker, have cleared all the imports raw cashew nuts and thereby, cheated the Principal. Hence he lodged a complaint before the police station and the police have not taken any



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steps and thereby, he filed a petition before the learned Judicial Magistrate No.IV, Thoothukudi, vide Cr.M.P.No.226615 of 2024, in which, the second respondent was directed to conduct enquiry upon the complaint. Thereafter, the second respondent simply closed the case as one of settled. The petitioner once again complained before the same Magistrate and the learned Judicial Magistrate No.IV, Thoothukudi, has directed the second respondent to submit his report on or before 17.12.2024. Till now, no progress was made in the above matter by the second respondent. Once the Magistrate passed order under Section 156(3) of Cr.P.C and the same was forwarded to the second respondent for taking action, it is the duty of the second respondent to register an FIR. But no FIR has been registered and no investigation was conducted. Hence this petition.

3.The learned Government Advocate (CrI.Side) appearing for the respondent police would submit that the petitioner lodged a complaint before the learned Judicial Magistrate No.IV, Thoothukudi and the same was forwarded to the second respondent, for which, enquiry has been conducted and the same was closed. Thereafter, again the learned Judicial Magistrate No.IV, Thoothukudi directed the second respondent



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for further investigation and file a report. Hence, an enquiry was conducted and closed. Therefore, nothing survives for further adjudication. The petitioner has to challenge the order in the manner known to law if he is aggrieved by the closure report.

4.Heard both sides and perused the records.

5.In this case, it is an admitted fact that the petitioner filed a petition under Section 156(3) of Cr.P.C. and the same was forwarded to the second respondent, but the said complaint was closed without registration of FIR and thereafter, the learned Judicial Magistrate No.IV, Thoothukudi ordered for further investigation and again, the same also closed and a report was also filed, without registering FIR.

6.Once the Judicial Magistrate passed order under Section 156(3) Cr.P.C, it is a judicial order and the order has to be complied with. Therefore, the second respondent ought to have registered an FIR and investigate the matter and file final report. But in this case without registering an FIR, the second respondent has conducted enquiry and again the learned Judicial Magistrate directed to conduct further



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investigation but without registering an FIR, he conducted an enquiry and closed the same. Therefore, the above said procedure adopted by the second respondent is unknown to law and once the Magistrate forwarded a complaint under Section 156(3) of Cr.P.C., it is the duty of the second respondent to register an FIR and conduct investigation, without registering an FIR, the second respondent cannot conduct enquiry. However, in this case, strangely the respondent police without registering FIR, conducted enquiry twice. The above said attitude of the police officer is not appreciable.

7. At this juncture, the learned Counsel for the petitioner relied upon the following judgments:

(i) ***Hemant Yashwant Dhage Vs. State of Maharashtra and others*** reported in ***(2016) 6 SCC 273***;

(ii) ***Mohd. Yousuf Vs. Afaq Jahan and another*** reported in ***(2006) 1 SCC 627*** and

(iii) ***Saravanan Vs. The Inspector of Police, Thirupattur Town Police Station***, in ***Crl.R.C.No.1527 of 2022*** on the file of this Court.



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8. On careful perusal of the above said judgment, it is clear that the registration of FIR involves only the process of entering the substance of the information relating to the commission of the cognizable offence in a book kept by the officer in charge of the police station. Even if a Magistrate does not say in any words while directing investigation under Section 156(3) of Cr.P.C that an FIR should be registered, it is the duty of the officer in charge of the police station to register the FIR regarding the cognizable offence disclosed by the complainant. In the case on hand also the learned Magistrate passed order in the petition filed under Section 156(3) of Cr.P.C and forwarded the complaint to the S.H.O. while so, the SHO ought to have registered FIR. After receipt of the complaint from the Court under Section 156(3) of Cr.P.C, once again, the police cannot conduct enquiry. Therefore, it is the duty of the second respondent to register an FIR and investigate the case.

9. In view of the above observations, the second respondent is directed to register an FIR and conduct investigation in the manner known to law.



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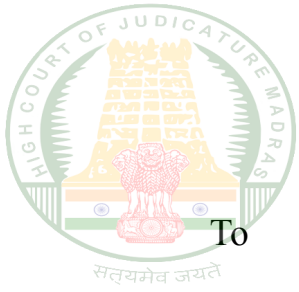
10. With the above direction, this Writ Petition is disposed of.

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

LR



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To

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1. The Superintendent of Police,
Thoothukudi District.
2. The Inspector of Police,
District Crime Branch,
Thoothukudi District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.DHANABAL, J.

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