



W.P(MD)No.9952 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 09.04.2025

CORAM :

THE HON'BLE MR.JUSTICE P.DHANABAL

W.P(MD)No.9952 of 2025

Paulraj

... Petitioner

Vs

1. The Superintendent of Police,
Office of Superintendent of Police,
Dindigul, Dindigul District.

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

... Respondents

PRAAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents 1 and 2 herein to take action based on the petitioners complaint dated 04.02.2022 in light of CrI.M.P. No.18632/2022 on the file of Judicial Magistrate No.II Dindigul, by considering the petitioners representation dated 18.02.2025.

For Petitioner : Mr.A.Aruljenifer

For Respondents : Mr.R.M.Anbunithi (R1,R2)
Additional Public Prosecutor



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ORDER

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This Writ Petition has been filed to direct the respondents 1 and 2 herein to take action based on the petitioner's complaint dated 04.02.2022 in light of CrI.M.P. No.18632/2022 on the file of Judicial Magistrate No.II Dindigul, by considering the petitioner's representation dated 18.02.2025.

2.The learned counsel for the petitioner would submit that the petitioner approached the Judicial Magistrate Court through CrI.MP No. 18632 of 2022 under section 156 (3) of Cr.P.C and the same was forwarded to the second respondent. However, without considering the same, the second respondent has simply conducted enquiry and closed the same. Once the learned Magistrate passed the order under Section 156(3) of Cr.P.C, it is the duty of the second respondent to register a case and conduct investigation and based on the investigation, they have to file a final report. Without registering an FIR, they simply closed the complaint. Therefore the report is not in accordance with law. Hence, this petition has been filed.



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3.The learned Additional Public Prosecutor appearing for the respondent police would submit that the petitioner has filed a petition under Section 156(3) of Cr.P.C before the Judicial Magistrate No.II, Dindigul and the same was forwarded to the second respondent. In that order the learned Magistrate stated that if the information received from the petitioner discloses, commission of cognizable offence, then the same shall be registered as FIR. If an information received does not disclose a cognizable offence, the Officer shall conduct preliminary enquiry and ascertain whether cognizable offence disclosed or not. Based on the order, they have conducted preliminary enquiry and thereafter, closed the same.

4.Heard the learned counsels appearing on both sides and perused the materials available on record.

5.On perusal of records the petitioner approached the learned Magistrate under Section 156(3) of Cr.P.C and the same was forwarded to the second respondent. As far as the petition filed under Section 156(3) of Cr.P.C, it is for the learned Magistrate has to pass orders, after applying mind. If there are prima facie materials to



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constitute the offence, then the same can be forwarded to the respondent police otherwise he has to dismiss the same. However, the learned Magistrate without applying mind, passed an order with the following conditions:

- 1. If the information received from the petitioner discloses, commission of cognizable offence, then the same shall be registered as FIR.*
- 2. If an information received does not disclose a cognizable offence, the Officer shall conduct preliminary enquiry and ascertain whether cognizable offence disclosed or not.*
- 3. If the inquiry disclosed commission of a cognizable offence, then FIR must be registered.*
- 4. If the preliminary inquiry ends in closing the complaint the disclosure report must be recorded along with the reasonings and a copy of the same shall be furnished to the complainant within one month.*
- 5. All information relating to cognizable offence whether resulting in registration of Fir or leading an enquiry must be reflected in the general diary/station diary/daily dairy*



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of the respondent police station.

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6. Therefore, the above said order of the Judicial Magistrate itself is not in accordance with law and the Judicial Magistrate ought to have forwarded the same to the second respondent for registering FIR, after confirming that there are prima facie materials, otherwise, he has to dismiss the same. Without doing the same, he has passed the aforesaid order, which is not in accordance with law.

7. Though the present petition is filed only to take action based on the complaint of the petitioner in the light of the order of the learned Magistrate passed in CrI.M.P(MD) No. 18632 of 2022 and the order of the learned Magistrate is not challenged, This Court in order to meet the ends of justice, inclined to quash the orders of the Judicial Magistrate.

8. Once the learned Magistrate forwarded the complaint under Section 156(3) of Cr.P.C, it is the duty of the police to register a case. They need not conduct another preliminary enquiry. The enquiry conducted by the police is not in accordance with law.



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9.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.

10.On careful perusal of the above said judgments, 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 cognizance 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 petitioner filed under Section 156(3) of Cr.P.C and



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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.

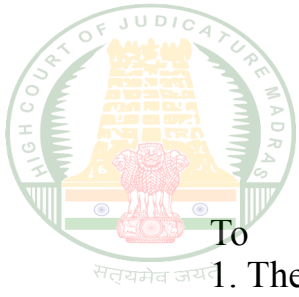
11.In view of the aforesaid discussions, the enquiry report and the order, dated 04.02.2022 passed in CrI.M.P. No.18632/2022 on the file of Judicial Magistrate No.II Dindigul are hereby set aside and the matter is remanded back to concerned Judicial Magistrate with a direction to consider the complaint of the petitioner in CrI.M.P.No. 18632/2022 afresh and pass appropriate orders in accordance with law.

12.With the above observations and direction, this Writ Petition is disposed of.

09.04.2025

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

PNM



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To

1. The Superintendent of Police,
Office of Superintendent of Police,
Dindigul, Dindigul District.

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

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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P.DHANABAL, J.

PNM

ORDER IN
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