

Crl.O.P.(MD) No.21126 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 21.04.2025

CORAM

THE HONOURABLE MR.JUSTICE P.DHANABAL

CRL. OP(MD). No.21126 of 2024

A.P.Esther Lilly

... Petitioner

Vs.

1. The Superintendent of Police
Office of the Superintendent of Police
Kanyakumari District

2.The Inspector of Police
Nesamony Nagar Police Station
Nagercoil

3. The Inspector of Police
CBCID, Nagercoil

4.Godwin

5. S.Panipillai

6. Ravin

7. Leema Rose

8. Espin Ammal

9. Chitra

10. Mary Darshini

11.Isakki Durai

Respondents

...

PRAYER: Criminal Original Petition filed under Section 528 of BNSS to call for the records pertaining to the impugned closure report dated 06.08.2024 filed by the respondent police and set aside the same and consequently direct



Crl.O.P.(MD) No.21126 of 2024

the second respondent to register the First Information Report in the light of the order in Crl.M.P.No. 173 of 2024 dated 04.07.2024 passed by the Additional Mahila Court, Nagercoil.

For Petitioner : Mr.M.S.Parthiban
For Respondents : Mr.M.Sakthi Kumar
No.1 to 3 Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been filed to call for the records relating to the impugned closure report dated 06.08.2024 filed by the respondent police and set aside the same and consequently direct the second respondent to register the First Information Report in the light of the order passed in Crl.M.P. No. 173 of 2024 dated 04.07.2024 passed by the Additional Mahila Court, Nagercoil.

2. The learned counsel appearing for the petitioner would submit that the petitioner has filed a petition before the Additional Mahila Court, Nagercoil under Section 156(3) of Cr.P.C., in Crl.M.P.No.173 of 2024 and the same was forwarded to the second respondent through an order dated 04.07.2024. Thereafter the second respondent without registering the First Information Report simply conducted enquiry and closed the complaint of the petitioner. Once the learned Magistrate passed order under Section 156(3) of Cr.P.C., it is



Crl.O.P.(MD) No.21126 of 2024

the duty of the second respondent to register the First Information Report.

Without registering First Information Report they conducted enquiry and closed the same, therefore the closure report is not in accordance with law and the same is liable to be set aside.

3. The learned Government Advocate(Crl.Side) appearing for the respondents 1 and 2 would submit that the petitioner filed a petition before the Additional Mahila Court, Nagercoil under Section 156(3) of Cr.P.C., and the same was forwarded to the second respondent police and the second respondent police conducted enquiry and thereafter closed. To that effect a report was also filed before the learned Magistrate. Therefore they have complied with the order of the Court and therefore the petition is liable to be dismissed.

4. Considering the scope of prayer sought for in this petition and even without issuing notice to the private respondents this Court is inclined to pass order in this petition. According to the petitioner he filed petition before the Additional Mahila Court, Nagercoil under Section 156(3) of Cr.P.C., and the same was forwarded to the second respondent police and they closed the complaint without registering the First Information Report. The second respondent also admitted the enquiry conducted by them and closed the same



Crl.O.P.(MD) No.21126 of 2024

without registering the First Information Report . It is well settled law that once the Magistrate passed order under Section 156(3) of Cr.P.C., it is a judicial order and the respondent police have to register the First Information Report and thereafter they have to conduct investigation and file final report. In this case the Magistrate passed order directing the Nesamoni Nagar Police Station to hold preliminary enquiry within a period of 15 days from the date of receipt of a copy of this order and thereafter if cognizable offence is made out then register the case and conduct enquiry in accordance with law and shall complete the same within a period of 30 days and shall file a report compliance of this Court. Since the Magistrate Court passed order to hold preliminary enquiry the second respondent conducted enquiry and closed the same.

5.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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6. 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.

7. Therefore the report filed by the second respondent by closing the complaint without registering the First Information Report is against law, hence the order passed by the second respondent is liable to be set aside. Since the Magistrate also passed order to conduct preliminary enquiry without applying judicial mind, the order of the Magistrate is also liable to be set aside.



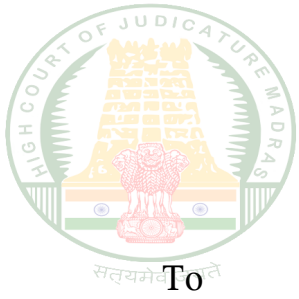
Crl.O.P.(MD) No.21126 of 2024

WEB COPY 8. Accordingly the order passed by the learned Magistrate and the report of the respondents are liable to be set aside. Though there is no any prayer sought for by the petitioner to set aside the order passed by the learned Magistrate, this Court by invoking powers under Section 528 of BNSS and to secure the ends of justice is inclined to pass orders setting aside the order passed by the learned Magistrate even though he has not challenged.

9. In view of the same, this Criminal Original Petition stands allowed and the learned Judicial Magistrate, Additional Mahila Court, Nagercoil is directed to pass appropriate orders after applying its judicial mind in the application filed by the petitioner within a period of one month from the date of receipt of a copy of this order.

21.04.2025

Internet :Yes
Index :Yes/No
NCC :Yes/No
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Crl.O.P.(MD) No.21126 of 2024

To
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- 1.The Judicial Magistrate, Additional Mahila Court, Nagercoil
2. The Superintendent of Police
Office of the Superintendent of Police
Kanyakumari District
- 3.The Inspector of Police
Nesamony Nagar Police Station
Nagercoil
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Crl.O.P.(MD) No.21126 of 2024

P.DHANABAL, J.

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Crl.O.P(MD)No.21126 of 2024

21.04.2025