

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.07.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.18651 of 2018
and CRL.M.P.No.9831 of 2018

M.M.Sajitha Fathima

.. Petitioner

Vs

State rep. by
The Inspector of Police,
Neelangarai Police Station,
Chennai.

.. Responder

Criminal Original Petition filed under Section 482 Cr.P.C., praying to set aside the order in CMP.No.3140 of 2018 dated 24.05.2018 passed by the Judicial Magistrate Court, Alandur and consequently to direct the respondent to register the FIR based on the complaint given by the petitioner dated 27.04.2018 and to investigate the same within the time stipulated.

For Petitioner : Mr.V.Shanmugavelayutham
Senior Counsel
for Mr.A.Raja Mohamed

For Respondent : Mr.C.Raghavan, GA

O R D E R

The petitioner filed a petition in CMP.No.3140 of 2018 before the Judicial Magistrate, Alandur alleging that her brother and uncle had forged the thumb impression of her father, while he was in the hospital and had grabbed certain family properties. The learned Magistrate has passed the following order :

"Complainant present. Heard. Perusal records. Complaint taken as private complaint. For recording sworn statement U/s. 200 Cr.P.C. at request call on 28.06.2018."

Challenging the said order, the petitioner is before this Court.

2.Heard Mr.Shanmugavelayutham, learned Senior Counsel appearing for the counsel on record for the petitioner.

3.Earlier, the petitioner has given a police complaint on 29.03.2018 before the Commissioner of Police and on that complaint, enquiry was conducted and during enquiry, the petitioner's brother Mohammed Ali promised the petitioner that he will settle some properties in her favour and on that score, no action was taken on the said complaint. Since Mohammed Ali reneged, the petitioner gave a fresh complaint on 28.04.2018, based on which, a petition enquiry is being conducted in CSR.No.359 of 2018 by the Inspector of Police, Neelankarai Police Station.

4.Mr.Shanmugavelayutham submitted that taking into consideration the nature of allegations in the FIR, the Police investigation is imperative and a complaint was filed before the Magistrate under Section 156[3] Cr.P.C. and the Magistrate proceeded to take the complaint as a private complaint under Section 200 Cr.P.C.

5.In the opinion of this Court, the Magistrate cannot be compelled to pass orders under Section 156[3] Cr.P.C. If the Magistrate decides to proceed under Section 200 Cr.P.C., the complainant cannot insist upon the Magistrate to order a police enquiry under Section 156[3] Cr.P.C., since the Police cannot be used through the orders of the Magistrate to settle the private disputes. In this case, the Magistrate had decided to proceed further under Section 200 Cr.P.C. and has called upon the complainant and witnesses to give their sworn statement, which cannot be said to be illegal in the facts and circumstances of the present case. The Magistrate also has power under Section 202 Cr.P.C., to order police investigation after taking cognizance, if necessary.

6.In such view of the matter, this Court does not find any infirmity in the order of the trial Court warranting interference. The petitioner is directed to co-operate with the trial Court and the trial Court is directed to expeditiously complete the proceedings.

With the above direction, this petition is closed. Consequently connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

1.The Judicial Magistrate ,
Alandur.

2.The Inspector of Police,
Neelangarai Police Station,
Chennai.

3.The Public Prosecutor,
High Court, Madras.

+lcc to Mr.A.Raja Mohamed, Advocate, S.R.No.49931

CRL.OP.No.18651 of 201

MR(CO)
GSP(07/08/2018)



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