

*A civil dispute could not be given the colour of a criminal offence.*

**[Case Brief] M. SUBRAMANIAM AND ANOTHER Vs. S. JANAKI AND ANOTHER**

<b>Case name</b>	<b>M. SUBRAMANIAM AND ANOTHER Vs. S. JANAKI AND ANOTHER</b>
<b>Case number</b>	Criminal Appeal No. 102 of 2011
<b>Court</b>	Supreme Court of India
<b>Bench</b>	J (N. V. Ramana.) J (Mohan M. Shantanagoudar) J (Sanjiv Khanna)
<b>Decided on</b>	March 20, 2020
<b>Relevant Act/Sections</b>	Section 154, 154(3), 156(3) of Cr.P.C. Article 136 of the Constitution of India, Sections 403, 406, 408, 418(i), 420, 424 and 465 of the Indian Penal Code, 1860

**Brief Facts and Procedural History:-**

1. The impugned order dated **06.01.2010** passed by the Madurai Bench of Madras High Court in Criminal O.P. (MD) No. 11620 of 2009 filed by S. Janaki, the first respondent before this Court, directs the Inspector of Police, City Crime Branch, K.K. Nagar, Trichy to register a case, that is, First Information Report, on the basis of the complaint dated **18.09.2008** and after investigation file the final report in accordance with law.
2. Aggrieved, Mr. M. Subramaniam and Mr. R.V. Prasanna Venkatesan who were not even made parties to the aforesaid Criminal O.P. (MD) No. 11620 of 2009 have filed the present petition under Article 136 of the Constitution of India. By order dated **12.03.2010**, the permission to file Special Leave Petition was granted and notice was issued. On considering the facts and assertions made, it was directed that in the meanwhile operation of the impugned judgment would be stayed. In spite of the aforesaid stay, it appears that the Inspector of Police, City Crime Branch, K.K. Nagar, Trichy on 05.04.2010 had registered an FIR in Crime No. 7 of 2010 under Sections 403, 406, 408, 418(i), 420, 424 and 465 of the Indian Penal Code, 1860 against the two appellants and three others. It

stands specifically directed that the police would not proceed further with the investigation till the decision of the present S.L.P.

### **Issue before the Court:**

1. Whether the impugned order dated 06.01.2010 passed by the Madurai Bench of Madras High Court in Criminal O.P. (MD) No. 11620 of 2009 is in accordance with law ?

### **Ratio of the Court:**

1. **Reliance was made on Sakiri Vasu v. State Of Uttar Pradesh And Others, (2008) 2 SCC 409**, it has been held by the Court that if a person has a grievance that the police station is not registering his FIR under Section 154 CrPC, then he can approach the Superintendent of Police under Section 154(3) CrPC by an application in writing. Even if that does not yield any satisfactory result in the sense that either the FIR is still not registered, or that even after registering it no proper investigation is held, it is open to the aggrieved person to file an application under Section 156(3) CrPC before the learned Magistrate concerned. If such an application under Section 156(3) is filed before the Magistrate, the Magistrate can direct the FIR to be registered and also can direct a proper investigation to be made, in a case where, according to the aggrieved person, no proper investigation was made. The Magistrate can also under the same provision monitor the investigation to ensure a proper investigation. The same ratio was followed in the case of **Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage and Others (2016) 6 SCC 277**.
2. The Magistrate concerned is directed to ensure proper investigation into the alleged offence under Section 156(3) CrPC and if he deems it necessary, he can also recommend to the SSP/SP concerned a change of the investigating officer, so that a proper investigation is done. The Magistrate can also monitor the investigation, though he cannot himself investigate (as investigation is the job of the police). Parties may produce any material they wish before the Magistrate concerned. The learned Magistrate shall be uninfluenced by any observation in the impugned order of the High Court.
3. The Court also surprised and concerned at the registration of the FIR in Crime No. 7 of 2010, notwithstanding, the stay order passed by this Court while issuing notice by which the operation of the impugned judgment was directed to remain stayed. At the same time, our order would not be an impediment in the way of the first respondent filing documents and papers with the police pursuant to the complaint dated **18.09.2008** and the police on being satisfied that a criminal offence is made out would have liberty to register an FIR. It is also open to the first respondent to approach the court of the metropolitan magistrate if deemed appropriate and
  - a. necessary. Equally, it will be open to the appellants and others to take steps to protect their interest.

4. The Court was of the view that and at the mere pendency of the civil proceeding is not a good ground and justification to not register and investigate an FIR if a criminal offence has been committed.

**Decision Held:**

In view of the settled position in **Sakiri Vasu v. State Of Uttar Pradesh And Other [(2008) 2 SCC 409]** the impugned judgment of the High Court cannot be sustained. This Court has not expressed any opinion on merits and whether or not the complainant discloses any criminal offence. The present appeal is partly allowed and the Court set aside the direction of the High Court for registration of FIR and investigation into the matter by police.