IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 17.06.2015

DELIVERED ON : 22.06.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH
Crl.O.P.No.1762 of 2015
and M.P.No.2 of 2015

Vivekanandan ..Petitioner

Vs

State rep by
Inspector of Police
Central Crime Branch, EDF-II
Team-3, Vepery, Chennai 7. .. Respondent

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to transfer the investigation in Cr.No.457 of 2014 from the file of Central Crime Branch, EDF-II, Team-3, Vepery, Chennai-7 to any other investigation agency preferably Central Bureau of Investigation (CBI)

For Petitioner Mr.P.Kumaresan

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For intervenor Mr.D.Sathiyaraj
For respondent Mr.C.Emalias, A.P.P.

ORDER

This petition has been filed by Vivekanandan for transferring the case from the file of the respondent police to any other agency, preferably CBI.

2. Heard the learned counsel for the petitioner, learned counsel appearing for the defacto complainant and the learned Additional Public Prosecutor appearing for the State.

3. The defacto complainant in this case is Fullerton India Credit Company Limited, in which the petitioner was working till 31.08.2014 in the Company's registered office at Chennai. The petitioner was given responsibilities for refunding the amounts that are due to customers of the defacto complainant. At the time of settlement of their accounts, the petitioner was required to recommend the release of the refund amount. On 01.08.2014, the petitioner resigned from the defacto complainant's Company. In September 2014, the defacto complainant's Customer Service Unit took note of a complaint given by one of its customers stating that, he had not received the refund money from the defacto

complainant. Thereafter, the defaco complainant conducted an internal enquiry, which confirmed that the refund to 329 accounts was not only credited to wrong beneficiaries, but also, the amounts did not correspond to the exact amount which was due for refund to customers. In other words, this petitioner seems to have recommended refunds to several persons which were approved by the Company and the actual refunds were not paid to the actual beneficiaries, but to the persons with similar names. In this ingenious scheme, the petitioner has used the services of his wife, who was working as Assistant Professor in the Presidency College. Bank accounts were opened in the name of the students of the petitioner's wife who had same names as that of the actual beneficiaries.

4. Based on the complaint lodged by the defacto complainant, the respondent police registered a case in Cr.No.457 of 2014 for offences under Sections 408, 420, 467 and 477A IPC against the petitioner and his wife. The petitioner was arrested by the police and was later released on bail. Now, the petitioner has come up with this petition to transfer the investigation on the ground that, the investigation is not going on in fair line and that the Investigating Officer is not looking into the large aspects of fraud that are taking place in the defacto complainant's Company. The essence of the petitioner's case for transfer is set out in the following paragraphs of his affidavit:

> "(k) The respondent is fully aware of the fact that the defacto complainant's Tamilnadu head Mr.Swaminathan and Tamilnadu loan's refund head Mr.Venkatesan, to complete procedural formalities to cheat/satisfy RBI, will give the list of the details of the refund account holder's bank account to the junior executives. The junior executives have to forward to the executives. Executives in turn will forward the same to the team leader and then they forward the same to the Tamilnadu head Mr.Swaminathan and Tamilnadu loan's refund head Mr.Venkatesan. This in turn will be forwarded by them to their head office at Mumbai. The head office has to verify the details furnished, by personal independent enquiry through phone and the phone call must have to be recorded for future verification. The higher officials then have to refund the amount to the customers who are entitled for the same. But all the officials at the head office at Mumbai, knowing about the fake details of the refund account holder's bank account, transferred the money to the fake refund account holder's bank account and got back the money from such fake amount holders, luring 20% commission to the company staffs, whoever brought the bank account numbers to be used for such fraudulent transfer and sharing the remaining 80% among themselves. Further, all the superior officers of the

defacto-company, the company's auditors staffs are involved in this fraud.

(m) As stated above the petitioner is victimized, as he went out of the employment on fear and did not intend to further involve in the illegal transaction of the defacto company. For his own safety, he brought a copy of the file which contains the list of the non-contactable customers who are entitled for refund amount, given by the Tamilnadu head Mr.Swaminathan and Tamilnadu loan's refund head Mr.Venkatesan. On 26.09.2014, the officials of the company came to the petitioner's house and criminally intimidated and threatened the petitioner to give back the above said file and his wife Mrs.Krishnaveni called the police emergency dialing 100 and informed the same. Pursuant to which one sub Inspector of Police Mr.Sunder Singh, attached to D3 Police Station enquired the matter and warned the officials of defacto company not to do the same again. Hence the defacto complainant's company used their high influence and made the respondent to register the case. Subsequent to which the petitioner was remanded on 18.11.2014, and police custody taken from 25.11.2014 to 26.11.2014. The petitioner was beaten and physically tortured in the Police custody and his right hand fingers were broken. On 26.11.2014 he was taken to his home along with the defacto complainant's company officials. There the respondent police have recovered the said file and handed over to the officials of the company in front of the petitioner and even in the seizure mahazar the said file has not been shown. Hence, the respondent police has taken the course of investigation only according to the will and dictates of the defacto complainant's company till date."

5. On the basis of the aforesaid allegations, the petitioner seeks transfer of investigation. The fact remains that the petitioner is an accused and he has been arrested by the police and released on bail. The learned counsel for the defacto complainant submitted that, if, during the course of investigation, the involvement of other persons working in their Company comes to light, they also should have to be made accused.

6. In paragraph (m), the petitioner has admitted that he is having a copy of the file belonging to his erstwhile employer, even after his resignation. If the petitioner had been very disturbed over the happenings in the defacto complainant's Company, he should have lodged a complaint. Instead, he has stealthily taken out certain files while resigning from the Company for reasons best

known to him. That apart, when the police are taking steps to apprehend the petitioner's wife Krishnaveni, she has gone into hiding and she has filed anticipatory bail application before this Court. Thus, this Court views the present prayer of the petitioner for transfer of investigation as a time-gaining measure for protecting his wife from arrest.

This Court does not find any merit in the transfer application and in the opinion of this Court, investigation is going on in the right line. Hence, this petition stands dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

gms

To

1.The Inspector of Police
Central Crime Branch, EDF-II
Team-3, Vepery, Chennai 7.

2. The Central Crime Branch, EDF-II,
Team-3, Vepery, Chennai-7

3.The Public Prosecutor
High Court, Madras.

1 cc to Mr.P.Kumaresan, Advocate, sr. 30399
1 cc to Mr.D.Sathiyaraj, Advocate, sr. 30397

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