

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 17.11.2014

Date of decision: 05.06.2015

CORAM:

THE HONOURABLE MR.JUSTICE R.S.RAMANATHAN

Crl.O.P. Nos.13680, 25377 and 29942 of 2014

A.G.Gopal Petitioner in all Petitions
vs.

- 1.The Commissioner cum Chief Secretary,
Vigilance and Anti-Corruption,
Government of Tamilnadu,
St.George Fort, Chennai - 600 009.
- 2.The Home Secretary,
Government of Tamilnadu,
St.George Fort, Chennai - 600 009.
- 3.The Director General of Police,
Santhome, Chennai - 600 004.
- 4.The Director,
Directorate of Vigilance and Anti-Corruption,
Greenways Road, Chennai - 600 028.
- 5.The Joint Director,
Directorate of Vigilance and Anti-Corruption,
Greenways Road, Chennai - 600 028.

...Respondents 1 to 5 in
Crl.O.P.No.13680/14 and 25377/14

- 6.The Deputy Superintendent of Police,
Vigilance and Anti-Corruption,
Kancheepuram,
Kancheepuram District.6th respondent in
Crl.O.P.No.13680 of 0214

- 7.The Department of Administrative Reforms
and Public Grievances,
Ministry of Personnel Public Grievances and
Pension,
Government of India, Sardar Patel Bhawan,
Parliament Street,
New Delhi - 100 001.

8.The Department of Personnel and Training,
Ministry of Personnel Public Grievances and
Pensions,
Government of India,
2nd Floor, Lok Nayak Bhavan,
New Delhi - 110 001. ...7th and 8th Respondents in
Crl.O.P.No.13680/14 and I and 2nd
Respondent in Crl.O.P.No.29942/14

9.The Secretary,
Personal and Administration Reforms,
Government of Tamilnadu,
St.George Fort, Chennai 600 009.

10.The Director of Prosecution,
Government of Tamilnadu,
(Tamil Nadu Slum Clearance Board Building),
Kamarajar Salai,
Chennai - 600 004. ...9th & 10th Respondents in
Crl.O.P.No.13680 of 2014

PRAYER : Criminal Original Petition No.13680 of 2014 filed under
Section 482 of the Code of Criminal Procedure praying to direct the
fourth and sixth respondent herein to register petitioner's
complaint dated 17.5.2014, investigate into the same, and to file a
final report.

Criminal Original Petition No.25377 of 2014 filed under
Section 482 of the Code of Criminal Procedure praying to direct the
respondents to register the petitioner's complaint dated 9.8.2014 as
against the accused, investigate into the same.

Criminal Original Petition No.29942 of 2014 filed under
Section 482 of the Code of Criminal Procedure praying to direct the
fourth respondent to register a case as against the Chief Secretary,
Government of Tamil Nadu, Secretariat, Chennai - 09, and the Home
Secretary, Government of Tamil Nadu, Secretariat, Chennai - 09, for
the Commission of offence under section 166 of the Indian Penal Code
by complaint dated 17.8.2014.

Mr.P.Karl Marx : for the petitioner in all Crl.O.Ps.

Mr.A.N.Thambidurai,
Addl.Public Prosecutor:for respondents in all Crl.O.Ps

COMMON ORDER

In Crl.O.P.No.13680 of 2014, the petitioner has sought for a direction directing the fourth and sixth respondents in that petition to register a case on the complaint dated 17.5.2014 given by him and to file a final report.

In Crl.O.P.No.29942 of 2014, the petitioner has sought for a direction directing the fourth respondent to register a case as against the Chief Secretary, Government of Tamil Nadu, and the Home Secretary, Government of Tamil Nadu, on the basis of the complaint given by him dated 17.5.2014.

In Crl.O.P.No.25377 of 2014, the petitioner has sought for a direction directing the respondents to register a case on his complaint dated 9.8.2014 and investigate the same.

2. As the facts stated in all these petitions are one and the same, all these Criminal OPs were heard together and common judgment is pronounced.

3. It is the case of the petitioner that the property in Survey No.307/5 having an extent of 1 acre 6 cents in Mannivakkam Village, Chengleput Taluk, Kancheepuram District, belonged to Lakshmiammal, K.Yelanthammal, L.Suseela, N.Murugesan, M.N.Muthan and M.N.Murthy. The property in Survey No.231/2B having an extent of 26 cents belonged to Kannan and Murugesan. The owners of the above properties executed a registered power of attorney in favour of A.G.Subbulakshmi, wife of the petitioner on 13.7.1990 and the power of attorney was registered as Document No.128/1990 on the file of the Sub-Registrar of Assurances, Guduvanchery, Chennai. Similarly, in respect of the property in Survey No.231/2B, the owners executed power of attorney dated 1.6.1989 registered as Document No.125 of 1989 on the file of the Sub-Registrar of Assurances, Guduvanchery, Chennai, infavour of the petitioner's wife A.G.Subbulakshmi. Pursuant to the power of attorney, the petitioner purchased the property in Survey No.307/5, having an extent of 1.06 acres from the power agent under the registered sale deed dated 16.4.2007 under Document No.5312/2007 on the file of the Sub-Registrar of Assurances, Guduvanchery, Chennai. The property in Survey No.231/2B having an extent of 26 cents was also purchased from the power agent by the petitioner under the registered sale deed dated 16.4.2007 under Document No.5311/2007 on the file of the Sub-Registrar of Assurances, Guduvanchery, Chennai. Therefore, the petitioner became absolute owner of those properties. In the year 2012, when the petitioner applied for Encumbrance Certificate, to his shock and surprise, he found various entries in respect of the same properties executed by his principals. According to him, Yelanthammal, N.Murugean and N.Muthan along with their legal heirs released their rights in respect of the property in Survey No.307/5 in favour of one M.Ramani, wife of late N.M.Murthy and the legal

heirs of N.Murugesan and N.Muthan and along with daughters of N.Murthy, namely, M.Sarojini and M.Saraswathi and along with daughters of late Suseela, namely, T.Reeta and M.Devi, in collusion with the husband of Suseela, namely, Lakshmanan and two other persons, namely, Charulatha and Parivallal released their 4/5th share in favour of M.Ramani, relating to the property in Survey No.307/5 and also the property in Survey No.231/2B. The other release deed is Document No.9887/2010 dated 17.8.2010 executed by the legal heirs of the said deceased Suseela, namely, K.Punniyakodi, L.Parivallal and U.Gomathi in favour of the said Ramani in respect of the above two said properties. It is stated that release deeds were effected after the power of attorney was executed by the original owners in favour of the petitioner's wife and those power of attorney are coupled with interest and therefore, the owners have no right to execute any release deed in respect of the same property in favour of Ramani. The said Ramani, in turn, executed registered sale deed dated 6.6.2011 in favour of C.Sundari, wife of Chandrahasan, through her power agent one Chitra, wife of Soundararajan, who is a Village Administrative Officer, and who is instrumental in creating all those documents to deprive the petitioner from enjoying the properties. The petitioner therefore filed W.P.No.20382 of 2012 seeking for a direction directing the District Registrar to set aside the release deeds and sale deeds in respect of those properties and the Writ Petition is pending. Though Ramani and Sundari cannot claim any right over the property in Survey No.307/5 and 231/2B and the petitioner is the absolute owner of those properties, to deprive the petitioner from enjoying the property, they filed the suit in O.S.No.199 of 2013 on the file of the District Munsif Court, Chenglepatu for injunction stating that the petitioner cannot claim any right over the properties under the sale deeds executed by power agent as the principals died when the power agent executed documents. The said Ramani in collusion with the V.A.O. Soundararajan created joint patta by forging signature of the petitioner. Therefore, the petitioner preferred a complaint dated 5.7.2013 with the District Crime Branch, Kancheepuram and a copy of the complaint was sent to the Inspector of Police, Mannivakkam Police Station by Registered Post to take action against the accused and as no action was taken, the petitioner filed CrI.O.P.No.22650 of 2013 seeking for a direction. At the time of hearing the said petition, petitioner's counsel submitted that a case was registered on the basis of the petitioner's complaint dated 5.7.2013 in Crime No.71 of 2013 under sections 465, 468, 471, 420 r/w 34 of the IPC. This Court by order dated 1.10.2013 directed the respondents therein to conduct investigation and file a charge sheet before this Court at an early date. The investigation in Crime No.71 of 2013 was entrusted to Mr.Ramesh Babu, DSP, Crime Branch, Kancheepuram, who did not take any steps to conduct proper investigation and file a charge sheet. Though this Court issued a direction to file a charge sheet in Crime No.71 of 2013 in CrI.O.P.No.22650 of 2013, no action has been taken by Mr.Ramesh Babu, the DSP, District Crime Branch, Kancheepuram.

The petitioner also said that the said Mr.Ramesh Babu in conspiracy with Soundararajan with malafide interest diverted the attention of the Government and police investigation in Crime No.71 of 2013. Pursuant to the complaint against the petitioner and his wife dated 10.4.2014 addressed to the District Crime Branch, Kancheepuram, Mr.Ramesh Babu, DSP, District Crime Branch, Kancheepuram, without properly appreciating the contents of the complaint dated 10.4.2014 given by Sundari and Ramani, wherein no cognizable offence was made out against his wife, registered a case in Crime No.12 of 2014 against the petitioner and his wife and that was done by the said DSP Mr.Ramesh Babu, at the instance of Soundararajan. Therefore, in the complaint dated 17.5.2014, the petitioner requested the fourth and sixth respondents therein to register a case against Mr.Ramesh Babu, DSP, DCB, Kancheepuram and Soundararajan, a retired Village Administrative Officer, for offences under sections 161, 165A, 166, 201 IPC read with sections 7, 8, 11 and 12 of the Prevention of Corruption Act. As no action was taken, Criminal O.P.No.13680 of 2014 was filed seeking direction to the fourth and sixth respondents to register a case on the complaint dated 17.5.2014 and in respect of the same complaint, CrI.O.P.No.29942 of 2014 was filed seeking to register a case against the Chief Secretary to Government of Tamil Nadu and Home Secretary to the Government of Tamil Nadu.

4. In respect of the same set of allegations, the petitioner gave a complaint dated 9.8.2014 against Mr.Sivapathasekaran, Deputy Superintendent of Police, Vigilance and Anti-Corruption, Kancheepuram, and Criminal O.P.No.25377 of 2014 2 was filed seeking for a direction directing the respondents therein to register a case against Sivapathasekaran, Deputy Superintendent of Police, Vigilance and Anti-corruption, Kancheepuram stating that the said Sivapathasekaran failed to take action in respect of the case in Crime No.71 of 2013 preferred against Yalanthammal, Murugesan, Muthan, M.N.Murthy and is conducting investigation against the petitioner and his wife on the complaint given by Sundari and Ramani, the defacto complainants, in FIR No.12 of 2014. In these circumstances, the three petitions are filed seeking for directions as aforesaid.

5.Mr.P.Karl Marx, learned counsel appearing for the petitioner reiterating the allegations made in the complaint dated 17.5.2014 and 9.8.2014 submitted that the power of attorney given by the original owners in favour of petitioner's wife were powers coupled with interest and therefore, the powers cannot be revoked and the principals were bound by the powers and even if the principals died subsequently, the power agent was entitled to act on the power of attorney and therefore, the sale deeds executed in faovur of the petitioner dated 16.4.2007 Document Nos.5311 and 15312 of 2007 were valid and the petitioner is the absolute owner of the properties in respect of properties in Survey No.307/5 and 231/B of Mannivakkam Village, Chengalpattu. He also submitted after the

execution of irrevocable powers of attorney in favour of A.G.Subbulakshmi, the owners have no right to execute any document in respect of the same property and therefore, the release deeds dated 23.9.2010, 30.7.2010 and 17.8.2010 vide Document Nos.7759 of 2010, 7769 of 2010 and 9887 of 2010 respectively, were not valid and the releasee, M.Ramani did not get any valid title in respect of those properties and consequently, the sale deed executed by Ramani in favour of C.Sundari dated 6.6.2011 was also not valid. He therefore submitted that as the legal heirs of the original owners with the dishonest intention of depriving the petitioner from claiming title to the properties in collusion with the said Ramani executed release deeds and the revenue officials and V.A.O., Soundararajan also conspired with them in effecting mutation of name in the revenue records, all of them committed the offences. He also submitted that though in Crime No.71 of 2013, the owners, Yalanthammal, Murugesan, Muthan, M.N.Murthy and others were arrayed as accused and in Crime No.1 of 2014 on the file of the Vigilance and Anti-corruption, Kancheepuram on the complaint given by the petitioner, Sundararajan, retired V.A.O., Chitra w/o. Soundararajan, Sub-Registrar - Guduvanchery, Head Surveyor, Deputy Tahsildar, Village Administrative Officer - Mannivakkam, Sundari and Ramani were also arrayed as accused, the complaint dated 17.5.2014 was given for taking action against Mr.Ramesh Babu, DSP, DCB, Kancheepuram, for having registered the case in Crime No.12/2014 against the petitioner on the complaint given by Ramani and Sundari without taking proper investigation by the said Mr.Ramesh Babu conspiring with them to deprive the rights of the petitioner and also diverted the crux of investigation in Crime No.71 of 2013 and Crime No.1 of 2014. Similarly, Sivapathasekar, Deputy Superintendent of Police, District Crime Branch also in collusion with the accused in Crime No.71 of 2013 and 1 of 2014 failed to take proper investigation in those crime numbers and is conducting investigation in Crime No.12 of 2014 against the petitioner and his wife and therefore, these petitions are filed seeking for a direction to take action against Mr.Ramesh Babu, Sivapathasekar, Chief Secretary and Home Secretary to the Government of Tamil Nadu.

6. A detailed counter was filed by Sivapathasekar, DSP, Vigilance and Anti-corruption on behalf of respondents 4 to 6 and the learned Additional Public Prosecutor, Mr.Thambidurai, reiterated the very same allegations and submitted that the present petitions are vexatious and there is no merit in these petitions and already a case has been registered in Crime Nos.71 of 2013 and 1 of 2014 on the complaint given by the petitioner and the Deputy Superintendent of Police, Mr.Ramesh Babu is conducting investigation in Crime No.71 of 2013 and Sivapathasekar, DSP, is conducting investigation in Crime No.1 of 2014 and no direction can be sought for against them when they were lawfully discharging their duties in conducting investigation and no materials were placed by the petitioner against those persons for having committed any offence. He also submitted that the prayer in Cr1.O.P.No.29942 of 2014 cannot be entertained as

no allegations were made in the complaint dated 17.5.2014 against the Chief Secretary and Home Secretary to the Government of Tamil Nadu and therefore prayed that the petitions may be dismissed.

7. I have gone through the typed set of papers filed by the petitioner and the counter affidavit filed by respondents 4 to 6 in Criminal O.P.No.13680 of 2014 and also considered the arguments of the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor.

8. As rightly submitted by the learned Additional Public Prosecutor, these petitions are vexatious and filed with a mala fide intention to abuse the process of Court.

9. As stated supra, a case has been registered in Crime No.71 of 2013 by the District Crime Branch, Kancheepuram, on the complaint given by the petitioner against four named persons and others relating to the property in Survey No.307/5 and 231/B of Mannivakkam Vilalge, Chengalpattu Taluk. It is the case of the petitioner that the owners of those properties executed a registered power of attorney in favour of A.G.Subbulakshmi, the wife of the petitioner authorising the agent to deal with the properties and the power was coupled with interest and therefore, the power of attorney cannot be revoked and even after the death of the principals, the power agent can act on the power of attorney. It is also admitted by the petitioner that the principals died and thereafter, the agent A.G.Subbulakshmi sold the property to the petitioner under Document Nos.5311 and 5312 of 2007 dated 16.4.2007. Prior to the sale in favour of the petitioner by the agent, the original owners released their rights in respect of those properties in favour of Ramani and thereafter, Ramani became the absolute owner of the properties and sold the properties to one Sundari and the purchaser Sundari was represented by the wife of Soundararajan, VAO, namely, Chitra.

10. Whether the power of attorney executed by the owners in favour of A.G.Subbulakshmi dated 13.7.1990 and 1.6.1989 were coupled with interest and whether the agent can sell the property on the basis of the power after the principals died are the questions to be decided by the Civil Court and in the Criminal Proceedings, it cannot be presumed that the power was coupled with interest and therefore, the power agent can act even after the death of the principals.

11. Admittedly, O.S.No.199 of 2013 was filed by Sundari and Ramani in respect of the same properties and that suit is also pending. Crime No.1 of 2014 was registered by the Directorate of Vigilance and Anti-corruption, Kancheepuram, on the complaint given by the petitioner against Soundararajan Ex-VAO, Chitra, Sub-Registrar, Tahsildar, Head Surveyor, Deputy Tahsildar, VAO and other persons under section 13(1)(d) r/w13(2) and 8 of PC Act and that investigation is taken up by Sivapathasekaran, DSP, DV&AC and

investigation in Crime No.71 of 2013 is taken up by Mr.Ramesh Babu, DSP, District Crime Branch, Kancheepuram. The complaint of the petitioner against Mr.Ramesh Babu, DSP, Kancheepuram is that the latter entertained the complaint against the petitioner and his wife and registered a case in Crime No.12 of 2014 and that complaint was given at the instance of Soundararajan, Ex-VAO and the said Mr.Ramesh Babu, in collusion with Sundari - defacto complaint, without conducting any proper enquiry, registered a case against the petitioner and his wife, and therefore, action has to be taken against Mr.Ramesh Babu, DSP, DCB, Kancheepuram and similarly, Sivapathasekaran, DSP, DV&AC, Kancheepuram is not conducting proper investigation in Crime No.1 of 2014 and he is also acting at the behest of the accused in that case and therefore, action has to be taken.

12. As stated supra, without any basis and without giving any materials against these persons, only to malign them and to divert the attention of the higher officials, the petitioner has given false complaint against those persons. If the petitioner is aggrieved by the inaction on the part of the Investigating Officer in not conducting investigation properly, it is always open to the petitioner to file necessary petition before this Court seeking for necessary direction. As a matter of fact, the petitioner filed Crl.O.P.No.27785 of 2013 seeking for a direction to conduct investigation in Crime No.71 of 2013 expeditiously and also filed Crl.O.P.No.5903 of 2014 seeking for transfer of the investigation in Crime No.71 of 2013 to any other officer except Ismail, Sub Inspector of Police and Dharmalingam, DSP, Anti-Land Grabbing Cell, Kancheepuram District. In those petitions, he has not made any allegations against Mr.Ramesh Babu, DSP, Kancheepuram. Further, the petitioner filed Crl.O.P.No.29410 of 2013 seeking for a direction to register the case against Soundararajan, Ex-VAO, revenue officials, Sub-Registrar, Guduvanchery and on that basis, a case was registered in Crime No.1 of 2014 was registered by the Deputy Superintendent of Police, Vigilance and Anti-Corruption, Kancheepuram. He also filed Crl.O.P.No.29630 of 2013 seeking for a direction not to harass him by the local police and DVAC and also filed Crl.O.P.No.15226 of 2014 seeking for a direction to register a case against Mr.Dharmalingam, former DSP, ALGC, Kancheepuram and Mr.Ismail, Sub-Inspector of Police (retired) ALGC, Kancheepuram, on the basis of the complaint given by him on 9.7.2013. Therefore, it is seen that the petitioner is a Court bird and has filed various petitions making vexatious allegations against the police officials when the petitioner realised that the police are not conducting investigation as expected by the petitioner and also as desired by the petitioner. As the petitioner is not satisfied with the investigation, without any basis, these petitions are filed against the Deputy Superintendent of Police, Kancheepuram and the Deputy Superintendent of Police, DV&AC, Kancheepuram and sought the direction of this Court to register a case against them. Therefore, according to me, the petitions are mala fide one and the

petitioner with a mala fide intention of abusing the process of Court filed those petitions and there is no merit in those petitions.

13. Further, in Crl.O.P.No.29942 of 2014, he prayed for a direction to register a case against the Chief Secretary and Home Secretary to the Government of Tamil Nadu on the basis of the complaint given by him dated 17.5.2014 and no allegations were made against those persons in the complaint and on the very same set of allegations, he filed these three petitions seeking for a direction to register a case against three different persons and therefore, I am of the opinion that the petitions are vexatious and filed with the mala fide intention of abusing the process of court and such practice should not be allowed to happen.

14. Hence, these petitions are dismissed with cost of Rs.10,000/- for each petition payable by the petitioner to the Madras High Court Mediation and Conciliation Centre, within a period of four weeks from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar (CS III)

//true copy//

Sub Assistant Registrar

asvm

To

- 1.The Commissioner cum Chief Secretary,
Vigilance and Anti-Corruption,
Government of Tamilnadu,
St.George Fort, Chennai - 600 009.
- 2.The Home Secretary,
Government of Tamilnadu,
St.George Fort,
Chennai - 600 009.
- 3.The Director General of Police,
Santhome, Chennai - 600 004.
- 4.The Director,
Directorate of Vigilance and Anti-Corruption,
Greenways Road, Chennai - 600 028.

- 5.The Joint Director,
Directorate of Vigilance and Anti-Corruption,
Greenways Road, Chennai - 600 028.
- 6.The Deputy Superintendent of Police,
Vigilance and Anti-Corruption,
Kancheepuram,
Kancheepuram District.
- 7.The Department of Administrative Reforms
and Public Grievances,
Ministry of Personnel Public Grievances and
Pension,
Government of India, Sardar Patel Bhawan,
Parliament Street,
New Delhi - 100 001.
- 8.The Department of Personnel and Training,
Ministry of Personnel Public Grievances and
Pensions,
Government of India,
2nd Floor, Lok Nayak Bhavan,
New Delhi - 110 001.
- 9.The Secretary,
Personal and Administration Reforms,
Government of Tamilnadu,
St.George Fort, Chennai 600 009.
- 10.The Director of Prosecution,
Government of Tamilnadu,
(Tamil Nadu Slum Clearance Board Building),
Kamarajar Salai, Chennai - 600 004.
- 11.The Central Vigilance Commission,
Satakata Bhavan,
A-Block, G.P.O.Complex,
INA Colony,
New Delhi - 110 003.
- 12.The Central Bureau of Investigation,
Plot No.5B, 10th Floor, "B" Wing,
CGO Complex,
Jawaharlal Nehru Stadium Marg,
Pargati Vihar,
New Delhi - 110 003.

13. The Secretary
Mediation and Conciliation Centre
High Court Building
Chennai-104

2 ccs to the Public Prosecutor, Sr. 27047, 27048
3 ccs to Mr.P.Karl Marx, Advocate, sr. 26804 to 26806

CrI.O.P. Nos.13680, 25377
and 29942 of 2014

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