

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.10.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.OP.No.24631 of 2015

M/S.SARAVANA SELVARATHINAM RETAIL PVT. LTD.  
REP BY ITS MANAGING DIRECTOR S.SARAVANA ARUL  
HAVING ITS REGISTERED OFFICE AT  
NO.14 RANGANATHAN STREET, T.NAGAR,  
CHENNAI-600 017.

...PETITIONER

Vs

1 STATE REP BY  
THE INSPECTOR OF POLICE,  
COIMBATORE CITY CRIME BRANCH,  
COIMBATORE-641 018.

2 THE ADDITIONAL DIRECTOR GENERAL OF POLICE,  
C.B.C.I.D., PANTHEON ROAD,  
EGMORE, CHENNAI-600 008.

...RESPONDENTS

Criminal Original Petition filed under Section 482 of  
Cr.P.C., praying to direct the 2<sup>nd</sup> respondent herein to  
reinvestigate the offences in Crime No.47/2014 on the file of  
the 1<sup>st</sup> respondent herein and proceed further in accordance  
with law.

For Petitioner : Mr.G.Karthikeyan

For Respondents : Mr.C.Emalias, APP

## WEB COPY O R D E R

This petition has been filed to direct the 2<sup>nd</sup>  
respondent to reinvestigate the offences in Crime No.47 of  
2014 on the file of the 1<sup>st</sup> respondent.

2. Heard the learned counsel for the petitioner;  
learned Additional Public Prosecutor for the respondents and  
perused the materials placed on record.

3. It is the case of the de facto complainant that on 23.12.2011, he purchased the subject property from one Ananthakumar and others. While so, the accused in this case appear to have executed a Release Deed, in respect of the same property on 16.04.2013. Aggrieved by which, the petitioner/de facto complainant lodged a complaint, based on which, a case in Crime No.47 of 2014 for offences under Section 120[b], 467, 471, 420 r/w 511 IPC was registered by the respondent police and after conducting a thorough investigation, the respondent police have filed a Closure Report before the learned Judicial Magistrate-III, Coimbatore.

4. It is seen that, even before filing of the Closure Report, RCS notice was served by the police on the de facto complainant and the Court has also served notice on the de facto complainant, so that the de facto complainant would avail of the opportunity to file a protest application. Since the de facto complainant did not avail of that opportunity, the learned Judicial Magistrate-III, Coimbatore accepted the Closure Report on 31.07.2015. Thereafter, the de facto complainant has applied for a certified copy of the Closure Report and has approached this Court for reinvestigation of the case.

5. Mr.G.Karthikeyan, learned counsel for the petitioner brought to the notice of this Court, that the Release Deed document dated 16.04.2013 shows that parties were residing at No.4, EB Colony, Edayarpalayam, Kuniamuthur, Coimbatore. But, whereas the photo identity card shows a different address. Learned counsel also brought to the notice of this Court, about a communication addressed by the Inspector General of Registration dated 17.05.2013, wherein, he has given certain advisories to the District Registrar for registration of the Release Deed, that was presented by the accused. It is the grievance of Mr.Karthikeyan, that the District Registrar, Coimbatore has flouted those advisories and has registered the document and therefore, there is criminality in it.

6. This Court perused the Closure Report and found that the police have examined several witnesses, in order to find out the correct address of the executants of the Release Deed and has come to a conclusion, that the executants were living in the address as stated in the identity card. It is to be borne in mind, that it is not the case of the de facto complainant, that those executants were impersonators or non existent individuals. The only grievance is that, they have

given an address which does not tally with the recital in the Release Deed.

7. In the considered opinion of this Court, this cannot give room to any criminality, as contended by the learned counsel. That apart, violation of the directives of the Inspector General of Registration cannot also lead to an inference, that the accused have committed an offence. In this case, there appears to be a dispute with regard to the title of the property, between the vendors of the de facto complainant and the parties to the Release Deed, inasmuch as the latter are claiming title to the property, through a document of the year 1893, but, whereas the vendors of the de facto complainant are claiming title via document No.319 of 1950. Therefore, the police have closed the same as mistake of fact, with an advise to the parties to approach the Civil Court.

8. This Court does not find any serious infirmity in the Closure Report. However, in order to give a fair opportunity to the de facto complainant, this Court set aside the order dated 31.07.2015 passed by the learned Judicial Magistrate-III, Coimbatore, accepting the Closure Report and gives liberty to the de facto complainant to file a protest application, within two weeks from the date of receipt of a copy of this order. On filing of such protest application, the learned Magistrate is directed to deal with the same, in accordance with law as laid down by the Hon'ble Supreme Court in Vinay Tyagi Vs Irshad Ali reported in 2013 [5] SCC 762.

With the above direction, this petition is closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

gya

To

1 THE INSPECTOR OF POLICE,  
COIMBATORE CITY CRIME BRANCH,  
COIMBATORE-641 018.

Sub Assistant Registrar

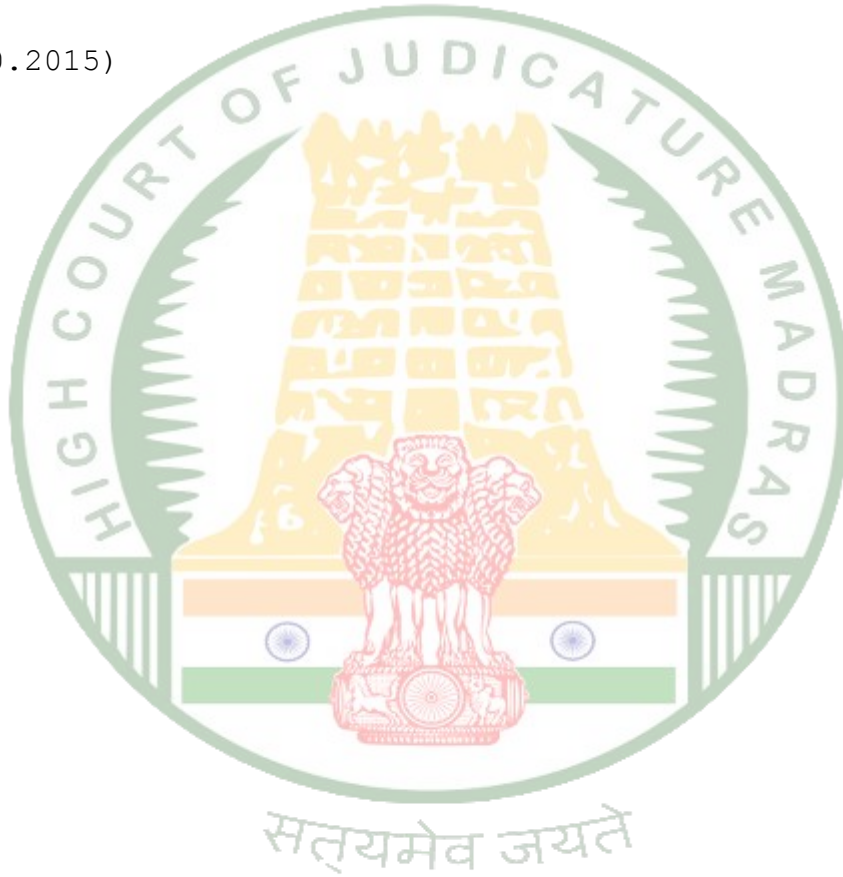
WEB COPY

2 THE ADDITIONAL DIRECTOR GENERAL OF POLICE,  
C.B.C.I.D., PANTHEON ROAD,  
EGMORE, CHENNAI-600 008.

3 THE PUBLIC PROSECUTOR,  
HIGH COURT, MADRAS.

CRL.OP.No.24631 of 2015

CTK (CO)  
PSI (29.10.2015)



WEB COPY