

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2015

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THE HONOURABLE MR. JUSTICE R.SUBBIAH

Crl.O.P.Nos.25763 and 27825 of 2015

P.Murugesan ... Petitioner in both the petitions

Vs

1. State by
The Sub- Inspector of Police,
Central Crime Branch,
Team-IV A Team,
Chennai - 7.
(Crime No.75/2007) ... Respondent in Crl.OP.No.25763/2015
and 1st Respondent in Crl.OP.27825/2015
2. The Commissioner of Police,
Chennai 7. ... 2nd Respondent in Crl.O.P.No.27825/2015

Prayer in Criminal Original Petition No.25763 of 2015:

This petition is filed under Section 482 Cr.P.C. to direct the respondent police to conduct proper investigation in Crime No.75/2007 on the file of the respondent taking into account of the complaint given by the petitioner and to submit the final report.

Prayer in Criminal Original Petition No.27825 of 2015:

This petition is filed under Section 482 Cr.P.C. to transfer the investigation in Crime No.75/2007 on the file of the respondent to CBI or CBCID and to direct the Inspector of Police, CBI or CBCID to investigate into the complaint dated 14.09.2006 of the petitioner, in the manner known to law and to direct them to file the report.

For Petitioner
in both the petitions : Mr.G.Murugendran

For respondents : Mr.C.Emalias,
Addl.Public Prosecutor

COMMON ORDER

Since the issue involved in both the criminal original petitions are related to each other, by way of a common order, these criminal original petitions are disposed of.

2. The petitioner herein lodged a complaint as against one Sivanesan, Chairman and Managing Director, Dream Vacations and Travels India Private Ltd., for the alleged offence under sections 406 and 420 IPC. Though the complaint was lodged on 13.02.2007 and the same was registered as Crime No.75/2007, there is no progress on the said complaint till date. Hence, CrI.O.P.No.25763/2015 has been filed to direct the respondent to conduct proper investigation and to file a final report and CrI.O.P.No.27825 of 2015 has been filed to transfer the investigation on the file of respondent to CBI or CBCID and to direct them to file the final report within the time fixed by this Court.

3. Today, when the matter is taken up for consideration, learned Additional Public Prosecutor submitted that the F.I.R., registered in Crime No.75/2007 was enquired into and referred charge sheet notice was served on the petitioner as early as in the year 2010 itself. He has also filed a detailed status report stating that one S.Sivanesan/A1, who is the Chairman and Managing Director has dealt with in respect of purchase of Air tickets with the petitioner and other parties and during the course of business, in the initial stages, they were prompt in settling their payments. The said Sivanesan is a Srilankan national and the second accused Kamalanathan, a retired Manager of Air Lanka and presently owner of Time Travels, Egmore, is a family friend of Sivanesan and he was instrumental in bringing Sivanesan to India. The 3rd and 4th accused are the friends of Sivanesan. A1, after gaining the confidence of the creditors, procured tickets and failed to pay the due amount to the tune of around Rs.1 crore and he was absconding after closing down his office. A case was registered in CCB Crime No.75 of 2007 for the alleged offence under sections 406 and 420 IPC. Though the respondent had taken their sincere and effective steps to trace the accused, A1, A3 and A4, they could not trace them. Hence, the Sub Inspector of Police obtained legal opinion from the Assistant Public Prosecutor, Additional Chief Metropolitan Magistrate Court, Egmore, Chennai. In his legal opinion, based on the investigation and officers report, he had stated that these accused A1, A3 and A4 are still absconding and hence, the case may be treated as "undetected one". Based on the above legal opinion, the then Sub-Inspector of Police served RCS.No.40/RC/CCB/20 on 31.3.2010 to the defacto complainant and the same was acknowledged by him and the Sub-Inspector of Police submitted the final report along with the served copy of RCS notice before the Additional Chief Metropolitan Court, Egmore,

Chennai and the same is pending. Hence, he seeks dismissal of these petitions.

4. Learned counsel for the petitioner submitted that the second accused is very much available and thus, he sought for a direction as prayed for in both the petitions.

5. The complaint was lodged in the year 2007 and the RCS was served and final report was also filed in the year 2010. After 8 years from the date of complaint, the petitioner has approached this Court. Therefore, this Court is of the opinion that at this juncture, the prayers sought for by the petitioner cannot be entertained. Hence, both the criminal original petitions are dismissed. However, the petitioner is at liberty to work out his remedy in the manner known to law.

vsi

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

1. The Sub- Inspector of Police,
Central Crime Branch,
Team-IV A Team,
Chennai - 7.
(Crime No.75/2007)

2. The Commissioner of Police,
Chennai 7.

3. The Public Prosecutor,
High Court, Madras.

+ 1 cc to Mr.G.Murugendran, Advocate SR 64689

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27825 of 2015