

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.02.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.2578/2015

Rm.S.Solaiyappan

..

Petitioner

Versus

- 1.The Commissioner of Police
Vepery, Chennai 600 007.
- 2.The Deputy Inspector General
of Police, CBCID, Egmore,
Chennai 600 008.
- 3.The Director
Central Bureau of Investigation
Chennai 600 006.
- 4.Inspector of Police
Central Crime Branch, 18th Team
Egmore, Chennai 600 008.

..

Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a writ of mandamus directing the transfer of investigation in Cr.No.567/2012 from the file of the 4th respondent to the file of either the 2nd respondent or the 3rd respondent for prompt investigation pursuant to the petitioner's representation dated 19.01.2015.

For Petitioner : Mr.A.P.Sathyamurthy

For Respondents : Mr.V.Jayaprakash Narayanan
Spl. Govt. Pleader

ORDER

Heard Mr.A.P.Sathyamurthy, learned counsel for the petitioner and Mr.V.Jayaprakash Narayanan, learned Special Government Pleader appearing for the respondents and with their consent, the writ petition is disposed of at the admission stage itself.

2.The petitioner seeks for issuance of a writ of mandamus for a direction to transfer of investigation in Cr.No.567/2012 from the file of the 4th respondent to the file of either the 2nd respondent or the 3rd respondent for prompt investigation pursuant to the petitioner's representation dated 19.01.2015.

3.The case of the petitioner is that he and his friend by name CT.S.Chidambaram purchased a property bearing Plot No.18, VGP Murphy Square, St. Thomas Mount, Chennai-18 comprised in survey No.1461 measuring an extent of 3600 sq.ft. through a land broker V.K.Narayanan. The said Narayanan introduced one Gopinath to the petitioner and his friend, as the agreement holder of the property and based on such introduction, the petitioner and friend have parted with a sum of Rs.1,16,35,000/- by way of cash and cheques on various dates. On the date of registration, the petitioner had parted with a sum of Rs.50 lakhs by way of Demand Draft and a sum of Rs.7,60,000/- by way of cash to S.Jayanthi, the owner of the above property and a sale deed was executed by her in favour of the petitioner and his friend Chidambaram on 01.06.2011 and the said document was registered as Document No.1253/2011 on the file of the Joint Sub Registrar-II, Saidapet, Chennai.

4.In the interregnum, when the petitioner applied for electricity service connection with the Tamil Nadu Electricity Board, Alandur on 12.03.2012 and the Assistant Engineer informed the petitioner that one Sachithanandam, the Power Agent of Bharathi Mudaliar had given a letter stating that the property in dispute belongs to Bharathi Mudaliar and that no electricity service connection should be given without his knowledge. Immediately, the petitioner approached Gopinath to clear the encumbrance. In spite of several requests made by the petitioner, Gopinath evaded and cheated the petitioner. In this regard, the petitioner has lodged a complaint before the 4th respondent and after investigation, a case was registered in Cr.No.567/2012 for the alleged offences u/s.420, 465, 467, 468, 471 r/w 120[B] IPC against Gopinath, Jayanthi and Sivaprakasam, pursuant to which Gopinath was arrested.

5.It is the further case of the petitioner that Gopinath had filed a petition u/s.439 Cr.P.C., seeking bail and this Court in Cr1.OP.No.1467/2013. The defacto complainant was heard and the matter was also referred to the Mediation and Conciliation Centre attached to this Court. However, the matter was not settled. Subsequently, an order was passed by this Court on 23.10.2013 in Cr1.OP.No.1467/2013 and the operative portion of the order reads thus:-

"6.Taking into consideration the fact that the money up to Rs.50 Lakhs has been transacted through the bank account of the petitioner and that, he claims that the said amount ha been withdrawn and paid to

other persons and taking into consideration the fact that he has also deposited the title deeds of his property and he is in judicial custody from 24.12.2013 and he has no bad antecedents and he would not tamper the witnesses or hamper the investigation, this Court is inclined to grant bail to the petitioner subject to the following conditions:-

[a]The petitioner should execute a bond for a sum of Rs.50,000/- [Rupees fifty thousand only] with two sureties each for a like sum of Rs.10,000/- to the satisfaction of the learned XI Metropolitan Magistrate, Saidapet, Chennai, and

[b]The petitioner shall deposit a sum of Rs.10 lakhs to the credit in Cr.No.567/2012 on the file of the learned XI Metropolitan Magistrate, Saidapet, Chennai within a period of four weeks from the date of receipt of a copy of this order, failing which the bail granted to the petitioner shall stand automatically cancelled; and

[c]The petitioner should report before the respondent police daily at 10.30 a.m. for a period of four weeks and thereafter, as and when required."

6. Thereafter, now the petitioner has come forward with this writ petition stating that the investigation has to be transferred. In this regard, he has also submitted a representation to the 1st respondent on 19.01.2015. From the allegations made in the representation dated 19.01.2015 and in the affidavit filed in support of this writ petition, this Court is of the view that the petitioner has not made out a concrete case for transfer of investigation. However, since the investigation is in progress, the Assistant Commissioner, Land Grabbing II Unit, CCB, Chennai, shall monitor the investigation in Cr.No.567/2012 in accordance with law.

7. The writ petition is disposed of with the above direction. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

AP

To

1.The Commissioner of Police
Vepery, Chennai 600 007.

2.The Deputy Inspector General
of Police, CBCID, Egmore,
Chennai 600 008.

3.The Director
Central Bureau of Investigation
Chennai 600 006.

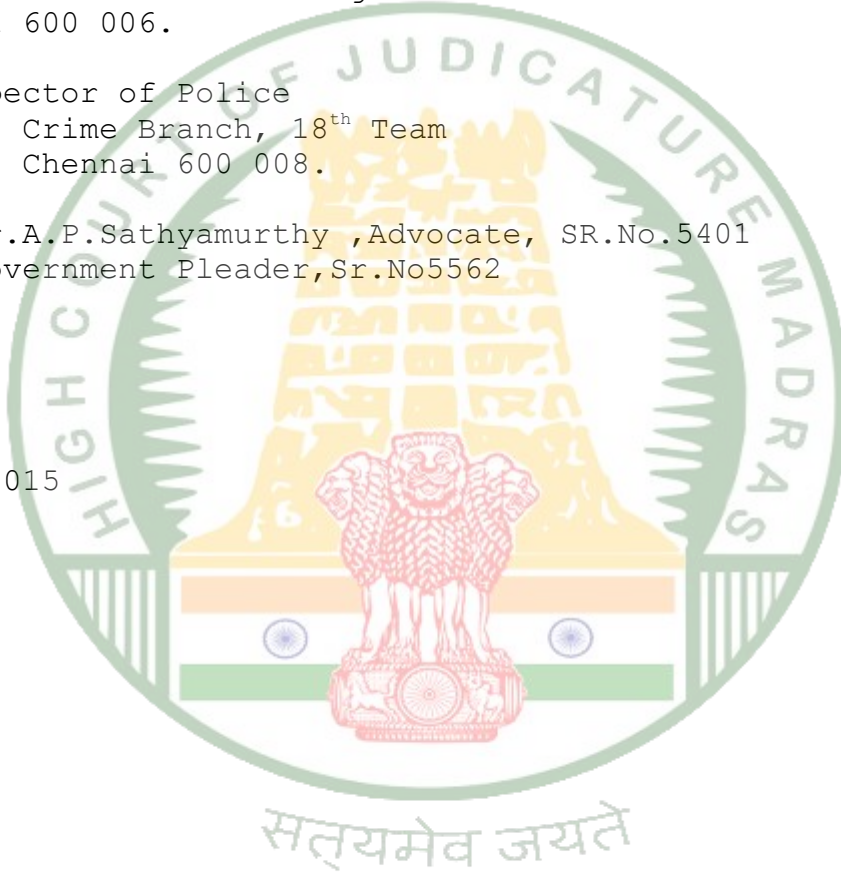
4.The Inspector of Police
Central Crime Branch, 18th Team
Egmore, Chennai 600 008.

1 cc to Mr.A.P.Sathyamurthy ,Advocate, SR.No.5401

1 cc to Government Pleader,Sr.No5562

WP.No.2578/2015

gr(co)
pmk.18.2.2015



WEB COPY