

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2015

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Cr1.O.P.No.28231 of 2015

D.Ramagopal

... Petitioner

Vs

1. The Commissioner of Police,
O/o, The Commissioner of Police,
Coimbatore - 641 018

2. The Inspector of Police,
B-9, Police Station,
Saravanapatti,
Coimbatore - 641 035.

... Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. to direct the 1st respondent to take necessary action on the complaints dated 15.11.2015 and to complete the investigation in the above said complaints and to submit the final report before the competent Court.

For Petitioner : Mr.J.E.Chelliah,
Senior counsel
for Mr.C.Saifullah

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

O R D E R

This petition has been filed to direct the 1st respondent to take necessary action on the complaints dated 15.11.2015 and to complete the investigation in the above said complaints and to submit the final report before the competent Court.

2. The petitioner herein submitted that during the year 1993, the petitioner was running a financial company. At that time, one Savithri approached him for obtaining loan. The petitioner advanced a loan amount of Rs.25,00,000/- to her on 09.07.1997. She executed a General Power of Attorney in favour of the petitioner. She was unable to repay the loan amount along with interest. Since, she could not able to manage the property, she authorised the petitioner to sell her property and to adjust the outstanding loan amount lent by the petitioner. Hence, the petitioner approached the real estate mediators, namely, Mathan, Benjamin and Newton for the sale of the property. The petitioner executed a sale agreement in favour of one R.Malathi W/o Ramesh on 28.10.2011 and received a part amount. However, due to unavoidable circumstances, the sale deed could not be executed. Hence, the said Malathi filed a suit for specific purpose in O.S.No.661/2012 before the Principal Subordinate Judge, Coimbatore, against the petitioner and land owner, Savithiri. The said suit was decreed in favour of Malathi. Even though the suit was decreed in favour of Malathi, she expressed her inability to purchase the property on 11.02.2013 and a Memorandum of Understanding was executed between Mathan, Newton and the petitioner with regard to the manner of execution of sale deed in favour of Malathi. Finally, the sale deed was executed on 11.03.2013. Subsequently, a power of attorney was executed on 28.03.2013 in favour of the petitioner and one Mr.Benjamin to manage and resale of the property. At that juncture, Newton and Mathan approached the petitioner and stated that they will sell the property for better market prize and demanded a margin amount out of the total sale consideration amount. The petitioner agreed for the same and on 14.10.2015, the petitioner was waiting in the Registrar Office. He was totally kept blind about the proposed buyer. Mathan and Newton introduced one Mr.Jayakumar, stating that he is going to buy the property. The petitioner was not aware of the total sale consideration. The said Newton and Mathan received hefty amount as brokerage commission and the petitioner has not received even a single pie. However, all the original documents were handed over to Jayakumar by the petitioner. In spite of clear title of property, Jayakumar raised an issue with regard to the defective title of the property. On 14.11.2015 at around 12.37 p.m., Jayakumar called the petitioner, through mobile phone and threatened the petitioner to cancel the sale deed and to return the sale consideration of Rs.28,00,000/-. The said Newton also joined along with Jayakumar. On 14.11.2015, at around

2.00 p.m., Mathan, Newton, Chandran, Ramesh Babu trespassed into the office of the petitioner situated at Ganapathi, Coimbatore and threatened the petitioner that they would kill him. Further, Mathan called through mobile at around 7.36 p.m. and threatened the petitioner. Finally, the petitioner, left with no other option, has sent complaints dated 15.11.2015 through registered post to the 1st respondent to take action against Jayakumar, Mathan, Benjamin, Newton, Chandran, Ramesh Babu and others. Since no action was taken based on the complaint, the present petition has been filed.

3. Learned Additional Public Prosecutor opposed the grant of direction stating that the matter appears to be civil in nature.

4. Learned senior counsel denies the same stating that there is specific allegation to the effect that the petitioner was being threatened by the said persons and thus, he insisted to give a direction.

5. In view of this submissions made on either side, this Court directs the respondent police to conduct the enquiry on the complaints dated 15.11.2015 and if the materials are gathered indicating any cognizable offence, he is directed to proceed further in accordance with law. In the course of investigation, if no prima facie is made out or the matter is civil in nature, he is directed to pass appropriate orders on the complaint made by the petitioner.

6. The criminal original petition is disposed of accordingly.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

vsi

To

1. The Commissioner of Police,
O/o, The Commissioner of Police,
Coimbatore - 641 018

WEB COPY

2. The Inspector of Police,
B-9, Police Station,
Saravanapatti,
Coimbatore - 641 035.

3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.C.Saifullah, Advocate, S.R.No.64145

CrI.O.P.No.28231 of 2015

RSI (CO)
CA(11/12/2015)



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