

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2015

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Crl.O.P.No.30443 of 2015

B.Banumathi

...Petitioner

Vs

The State represented by
The Inspector of Police,
R3, Police Station,
Ashok Nagar Police Station,
Chennai-600 083.

...Respondent

Criminal Original Petition filed under Section 482 Cr.P.C. to direct the respondent, the Inspector of Police, R3 Police Station, Ashok Nagar, Chennai-600 083, to register the complaint of the petitioner dated 20th November 2015 under Section 420 of the Indian Penal Code.

For Petitioner : Mr.V.Ramamurthy

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

ORDER

The present criminal original petition has been filed seeking a direction, directing the respondent, the Inspector of Police, R3 Police Station, Ashok Nagar, Chennai-600 083, to register the complaint of the petitioner dated 20th November 2015 under Section 420 of the Indian Penal Code.

2. In the petition, it is stated that the petitioner and her husband intended to buy a house at West Mambalam in Chennai. At that time, their relative viz., V.Balakrishnan introduced them to one A.Ramakrishnan who is a Civil Contractor and also doing real estate business. The said Ramakrsihnan by showing a vacant land available for sale in postal colony 3rd Street at West mambalam assured that he would construct a house and deliver the same to them, for the purpose of construction of the house, he demanded 30 lakhs from them. The petitioner's husband gave the said amount to him though a cheque No.578846 dated 7.6.2010. After realising the cheque amount, the said

Ramakrishnan had been postponing to perform the construction work undertaken by him and started giving evasive replies, due to which, several months had elapsed. Therefore, the petitioner lodged police complaint on 22.5.2013. On enquiry, the said Ramakrishnan repaid only Rs.2,5 lakhs on 15.6.2013 and agreed to pay the balance amount by July 2013.

3. It was further alleged in the complaint that earlier in the month of May 2013, the said Ramakrishnan again borrowed a hand loan from this petitioner by assuring that he badly requires cash for documentation expenses of another property situate at No.92, Chakrapani Street extension, West Mambalam, in respect of which, he is going to obtain a power of attorney and as soon as he sell the same to one Indra Sellasami, he would give a part of sale consideration to settle this petitioner. But after executing power of attorney, though the said Ramakrishnan received 90 lakhs from the seller of the above mentioned property, he did not repay the balance amount of Rs.27.5 lakhs apart from the additional amount of Rs.1.55 lakhs received from the petitioner's husband, he had been evading the payment. Hence the petitioner lodged complaint against him on 4.9.2014 before the Commissioner of Police, Chennai and the same was forwarded to the respondent herein and he was called for enquiry on 8.11.2014. During enquiry, he gave an undertaking that he would repay the petitioner's money by 31.1.2015 out of the balance sale amount to be paid by Indra towards balance sale amount and also from a financier in Puthur, Andhra Pradesh. Finally on 3.11.2015, he gave an affidavit of undertaking that he would repay the petitioner's money or register a small piece of land to an extent of 450 sq.ft. situated at Chakrapani Street extension, proposed to be purchased by Indira Sellasamy on or before 15 November 2015. But later she came to know that the said Ramakrishnan had already executed sale deed in favour of Indira Sellasamy on 10th July 2015 itself and by suppressing all these material facts, he deceived the petitioner and her husband by committing criminal breach of trust and till date he had been evading to repay a sum of Rs.29.05 lakhs to the petitioner, being the balance amount. When they demanded the said Ramakrishnan, he started threatening the petitioner by using abusive language and with dire consequences. Hence the petitioner lodged the complaint with the respondent police on 20.11.2015, but till date, no action is taken on the said complaint.

4. Learned Additional Public Prosecutor submitted that the matter appears to be purely civil in nature and the complaint was lodged by post and if the complaint is given in person by the petitioner, appropriate action would be taken.

5. However, irrespective of the submissions made on either side, this Court is of the opinion that it is appropriate to direct the petitioner to give a fresh complaint along with a copy of this order within a period of one week from the date of receipt of a copy of this order and on such complaint, the respondent is directed to conduct an enquiry on the complaint dated 20.11.2015 given by the petitioner. Upon enquiry, if materials are gathered indicating any cognizable offence, the respondent shall proceed further in accordance with law as early as possible. If no prima facie case is made out for investigation, the respondent is directed to pass appropriate order on the complaint.

6. This criminal original petition is disposed of accordingly.

sd/-
Assistant Registrar (Cs-III)

/TRUE COPY/

Sub-Assistant Registrar

msr

To

1. The Inspector of Police,
R3, Police Station,
Ashok Nagar Police Station,
Chennai-600 083.

2. The Public Prosecutor,
High Court, Madras.

+1 CC to MR.V.Ramamurthy Advocate. SR.NO.69754

CO-PPA
JD 20/01/2016

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