

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2016

CORAM :

THE HONOURABLE MS. JUSTICE R.MALA

Crl.O.P.No.1386 of 2016

S.Durai Babu

... Petitioner

Vs.

1. The Commissioner of Police,
Central Crime Branch-EDF II
Greater Chennai,
Vepery, Chennai - 600 007.

2. Central Bureau of Criminal Investigation Division,
(CBCID)
Egmore, Chennai - 600 008.

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., to transfer the investigation on the complaint dated 26.05.2015 to the second respondent for a complete investigation on all the allegations and offences which is pending on the file of the first respondent and to pass an order directing the second respondent to file FIR based on the complaint dated 26.05.2015 within a time frame as fixed by this Court.

For Petitioner : Mr.M.Aravind Subramaniam

For Respondents : Mr.C.Emalias
Additional Public Prosecutor(For R1)

सत्यमेव जयते
O R D E R

The petitioner has come forward with this petition seeking for a direction, to transfer the investigation on the complaint dated 26.05.2015 to the second respondent for a complete investigation on all the allegations and offences which is pending on the file of the first respondent on the basis of the complaint dated 26.05.2015.

2.The learned counsel for the petitioner submitted that the petitioner herein purchased a flat situated at A-20, 3rd Floor, Yamuna Homes, Parameshwari Nagar 4th Street, Adyar, Chennai-600 020 and the proposed accused has mortgaged the property with the

IDBI Bank and availed the loan. Hence, the petitioner has given a complaint before the first respondent on 26.05.2015. But the first respondent has not properly enquired the matter and closed the same and that information has been obtained by the petitioner through the Right to Information Act. Hence, he prays for transfer of investigation from the file of the first respondent to the file of the second respondent.

3. Resisting the same, the learned Additional Public Prosecutor, would submit that as soon as the complaint has been received from the petitioner, that has been forwarded to the Deputy Commissioner of Police-II, Central Crime Branch, Chennai, Assistant Commissioner of Police, Central Crime Branch, EDF-I and the Inspector of Police, EDF-I, Team-II through proper channel. He further submitted that they made an enquiry and during enquiry, they came to know that the property mentioned by the petitioner was not mortgaged by the proposed accused and they have also obtained a letter from the Bank dated 25.08.2015 to that effect. He would also submitted that since there is no prima facie evidence to show that the property of the petitioner has been mortgaged by the proposed accused, the complaint was closed. Hence, he pray for dismissal of the petition.

4. Considered the rival submissions made by both sides and perused the typed set of papers.

5. Even though in the letter dated 25.04.2015, the IDBI Bank has mentioned the property address as Flat No.A-20, 3rd Floor, Block NO.22, Plot No.12, 4th Street, Parameshwari Nagar, Adyar and has given the details of interest and principal, now the Bank has given another letter dated 25.08.2015 stating that the property mortgaged is entirely different. Further, the learned Additional Public Prosecutor would submit that only after perusing the entire documents filed by the petitioner, the Bank Officials have given a certificate that the petition mentioned property was not mortgaged with them. In such circumstances, since already due enquiry has been conducted and the complaint was closed, there is no need to re-open the case and transfer the same. Hence, the Criminal Original Petition is dismissed. However, the petitioner is at liberty to approach the appropriate forum for an alternative relief.

Sd/-
Assistant Registrar(CS IV)

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Sub Assistant Registrar

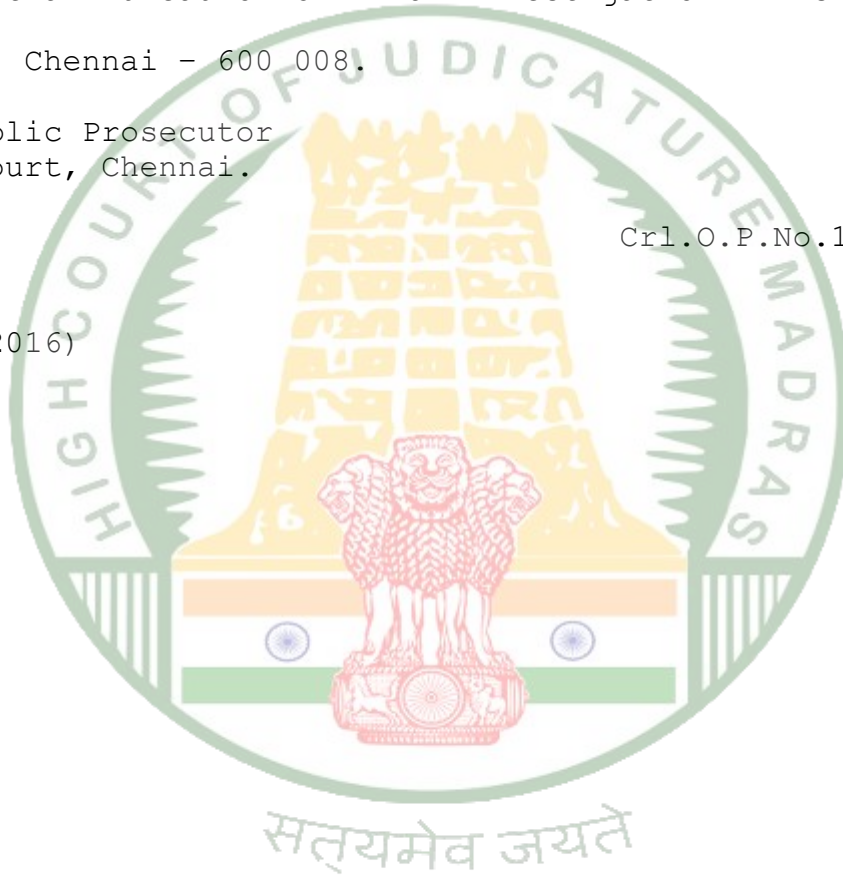
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To

1. The Commissioner of Police,
Central Crime Branch-EDF II
Greater Chennai,
Vepery,
Chennai - 600 007.
2. The Central Bureau of Criminal Investigation Division,
(CBCID)
Egmore, Chennai - 600 008.
3. The Public Prosecutor
High Court, Chennai.

CrI.O.P.No.1386 of 2016

KJI (CO)
CA(22/03/2016)



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