

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22.07.2016

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.OP.No.15626 of 2016

R.Janaki ... Petitioner
Vs
State rep.by

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

2.The Deputy Commissioner of Police,
Greater Chennai,
Vepery, Chennai-600 007.

3.The Inspector of Police,
Central Crime Branch, EDF-III,
Team XXI, Greater Chennai,
Vepery, Chennai-600 007. ...

Respondents

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records relating to the closure report/letter dated 27.05.2016 issued by the 3rd respondent and to set aside the same and consequently, direct the 3rd respondent to register the First Information Report against J.Thulaseedharan and his wife T.Kavitha on the petitioner's complaint dated 04.01.2016 on the file of the 1st respondent and proceed further in accordance with law.

For Petitioner : Mr.R.Arvind
For Respondents : Mr.C.Emalias, APP

O R D E R

This petition has been filed to set aside the closure report/letter dated 27.05.2016 issued by the 3rd respondent and to direct the 3rd respondent to register FIR against J.Thulaseedharan and his wife T.Kavitha on the petitioner's complaint dated 04.01.2016 on the file of the 1st respondent and proceed further in accordance with law.

2. Heard the learned counsel for the petitioner; learned Additional Public Prosecutor appearing for the respondents and perused the materials placed on record.

3. One R.Janaki gave a complaint dated 16.12.2015, which was actually presented in the O/o.The Commissioner of Police on

04.01.2016, as could be seen from the copy of the COP visitor slip enclosed in page No.61 of the typed set of papers. Since no action was taken on her complaint, Janaki filed CrI.O.P.No.11807 of 2016 for a direction to the respondent Police to register FIR on the complaint and this Court passed the following order on 13.06.2016:

"3. Learned Additional Public Prosecutor submits that, on the petitioner's complaint dated 04.01.2016, petition enquiry was conducted and the same was closed on 27.05.2016 as "civil in nature". A copy of the Closure Report has been furnished to the learned counsel for the petitioner across the bar.

Recording the same, this petition is closed with liberty to the petitioner to work out her remedy in the manner known to law."

After getting the closure report dated 27.05.2016, Janaki is before this Court to set aside the closure report and for a direction to the respondent Police to register FIR.

4. When FIR is registered and the same is closed, the de facto complainant will get an opportunity to file a protest petition before the jurisdictional Magistrate, on which, the jurisdictional Magistrate can pass orders as laid down by the Hon'ble Supreme Court in Vinay Tyagi Vs Irshad Ali reported in 2013 [5] SCC 762. In a case, where a regular FIR is not registered and only a petition is pending, as laid down by the Hon'ble Supreme Court in Lalita Kumari Vs Government of Uttarpradesh and Others [2014] 2 SCC 1, enquiry should be conducted and the complainant be informed of the outcome of the enquiry. When such enquiry is conducted by the Police and the case is closed, the remedy to the complainant is to file a private complaint before the jurisdictional Magistrate. Normally, this Court will not sit in judicial review over such closure reports under Section 482 Cr.P.C. Of course, in extraordinary cases, where it is shown that the closure report is per se illegal, this Court cannot be a silent spectator and drive the party to file a private complaint. Therefore, this Court heard the submissions of the learned counsel for Janakai and Additional Public Prosecutor appearing for the respondents.

5. On reading of the complaint dated 16.12.2015, it is seen that Janaki is about 72 years old spinster and one Thulaseedharan a colleague of Janaki's sister, got acquainted with Janaki in the guise of helping her in her old age and earned her confidence. Thereafter, he requested Janaki that she can raise a loan on her property from a Bank and build additional tenements, so that she will get some income. In the guise of getting her signatures in the loan application, it is seen that he has taken her to the Registrar's office on 06.02.2008 and has got registered an Adoption Deed, as if adoption ceremony adopting Thulaseedharan was done on 14.11.1980. The said deed has been registered as document No.66 of 2008 in book No.IV at the O/o.The Sub Registrar, Sowcarpet. On the same day, a Will has been registered, as if Janaki has bequeathed her properties to Thulaseedharan. Thereafter, Thulaseedharan has obtained a Settlement Deed dated 15.10.2008 from Janaki, as if she has settled the property belonging to her in his favour. Janaki

realised the fraud only subsequently and therefore, she filed O.S.No.14 of 2016 before the District Munsif, Ambattur for declaring the above Settlement Deed as null and void.

6. This Court is shocked at the modus operandi adopted by Thulaseedharan in having an Adoption Deed, Will and Settlement Deed registered in his favour. Unfortunately, Police have failed to see through this game and instead, they have closed the complaint by conducting an enquiry perfunctorily and have advised Janaki to file a civil suit for cancellation of the documents.

7. In the considered opinion of this Court, this is a very rare case, where an order under Section 482 Cr.P.C. requires be passed to render complete justice to the victim. In the result, this Court sets aside the closure report dated 27.05.2016 of the Sub Inspector of Police, Central Crime Branch, EDF-III, Team-XXI, Vepery, Chennai and the Deputy Commissioner of Police, Central Crime Branch is directed to assign the complaint dated 16.12.2015 to a competent Inspector of Police for registration of FIR and to proceed in accordance with law.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

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

2.The Deputy Commissioner of Police,
Greater Chennai, Vepery, Chennai-600 007.

3.The Inspector of Police,
Central Crime Branch, EDF-III,
Team XXI, Greater Chennai, Vepery, Chennai-600 007.

4.The Sub Inspector of Police,
Central Crime Branch
EDF III, Team XXI, Vepery, Chennai.

5.The Deputy Commissioner of Police,
Central Crime Branch, Vepery, Chennai.

6.The Public Prosecutor,
High Court, Chennai.

+2 cc to Mr.R.Arvind, advocate, sr.41667.

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krd 5/8

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