

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :08.01.2016

CORAM:

THE HON'BLE MR.JUSTICE R.SUBBIAH

CrI.O.P.No.30280 of 2015

M.Kandasamy

.. Petitioner

Vs.,

Superintendent of Police,
District Crime Branch,
Coimbatore District.

.. Respondent

Prayer : Petition filed under Section 482 of the Criminal Procedure Code praying to direct the respondent to register the complaint of the petitioner dated 05.10.2015 and proceed with the investigation in accordance with law.

For Petitioner : Mr.T.Gowthaman

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

ORDER

This Criminal Original Petition has been filed seeking to direct the respondent to register the complaint of the petitioner dated 05.10.2015 and proceed with the investigation in accordance with law.

2. The case of the petitioner is that the petitioner is doing a Real Estate Business. While so, one S.Samiyathal, P.S.Chellamuthu, Sumathi and her father P.Kanthasamy approached the petitioner and stated that they have owned many properties in Coimbatore, which were mortgaged with the bank and few other finance companies and further, they stated that the properties are valuable and could be sold for a huge profit and if the amount due to the bank and financial institutions were repaid, there was no other dispute with respect to the said properties. Hence, the petitioner got an encumbrance certificate, which do not reflect any encumbrance in the properties in question. Therefore, the petitioner had entered into an agreement on 25.02.2012 of sale with said S.Samiyathal with respect to the

properties bearing S.Nos.172/1C and 172/2 at Vellakinaru Village, Coimbatore, measuring to an extent of 5.09 cents and paid a sum of Rs. 49,00,000/- as against the total sale consideration of Rs.49,88,200/-. Further, the petitioner entered into another agreement on 28.02.2012 of sale with the said S.Samiyathal and P.S.Chellamuthu with respect to the properties bearing S.Nos.172/1 C and 172/2 at Vellakinaru Village, Coimbatore, measuring to an extent of 12.60 cents and paid a sum of Rs.1,20,00,000/- as against the total sale consideration of Rs.1,23,28,400/-.

3. On 14.09.2015, the petitioner came to know through newspaper reports that the said persons have been running a fraudulent chit fund in the name and style of M/s Abilash Auto Finance, consequent to which, the aforesaid properties came to be attached and brought for auction. Further, the petitioner came to know that they have taken the money from the petitioner only to release their properties from the Court and they had no intention to sell the properties to the petitioner and thereby, they have cheated the petitioner. Hence, the petitioner questioned the same to the above said persons, they did not respond properly and they told that the properties have been sold and the sale proceeds were with the District Revenue Officer and the money has to be collected from the District Revenue Officer. Hence, the petitioner lodged a complaint before the respondent-police. Since till date no action was taken by the respondent-police, the petitioner has filed the present criminal original petition.

4. I have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.

5. The learned Additional Public Prosecutor submitted that on receipt of the complaint of the petitioner, C.No.472/2015 has been assigned and the matter is pending for enquiry.

6. In view of the submissions made by the petitioner as well as the Additional Public Prosecutor, this Court directs the respondent to conduct enquiry on the complaint of the petitioner dated 05.10.2015 in C.No.472 of 2015 and upon enquiry, if materials are gathered indicating commission of any cognizable offence, the respondent is directed to proceed further in accordance with law, as early as possible. If no prima facie case is made out or matter is of civil nature, the respondent is directed to pass an appropriate order on the said complaint.

7. This criminal original petition is disposed of accordingly.

Ari

Sd/-
Assistant Registrar (C.C.C.)

/True Copy/

Sub-Assistant Registrar

To

1. The Superintendent of Police,
District Crime Branch,
Coimbatore District.
2. The Public Prosecutor,
High Court, Madras.

+1 C.C. To MR.T.Gowthaman, Advocate in SR.NO.1602

Cr1.O.P.No.30280 of 2015

SK(CO)
sd : 28/01/2016



WEB COPY