

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :31.08.2016

CORAM:

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Cr1.O.P.No.19167 of 2016

and Cr1. MP. No.9017 of 2016

SeenuloganathanPetitioner/A1

Vs.,

1. State by
Inspector of Police,
CBCID, Puducherry.
(Crime No.13/2016)

2. Sivaraj ... Respondents / Complainant /
Defacto Complainant

Prayer: Petition filed under Section 482 of the Criminal Procedure Code praying to call for the records in Crime No.13 of 2016 on the file of the Inspector of Police, CBCID, Pudhucherry in so far as this petitioner is concerned and quash the same.

For Petitioner : Mr.Ananthanarayanan, Sr. Counsel
for Mr. K.Balu

For 1st Respondent : Mr.M.R.Thangavel,
Addl. Public Prosecutor (Puducherry)

ORDER

This Criminal Original Petition has been filed by the petitioner praying to call for the records in Crime No.13 of 2016 on the file of the Inspector of Police, CBCID, Pudhucherry insofar as this petitioner is concerned and quash the same.

2. Heard Mr.Ananthanarayanan, the learned Senior Counsel appearing for the petitioner and Mr.M.R.Thangavel, learned Additional Public Prosecutor (Puducherry) appearing for the 1st Respondent.

3. On the complaint lodged by one Sivaraj, the CBCID, Puducherry, have registered a case in Crime No.13 of 2016 under Sections 149, 465, 468, 471 r/w 34 IPC against one Punniyamurthy and others, for quashing which Seenuloganathan is before this Court. On a reading of the FIR it is alleged by the defacto complainant that the property in question belongs to the family of one Periyamayaki Emeri Desan and that one Punniyamurthy (A1) impersonated himself as Seenuloganathan, son of Venugopal and had a Will registered and is claiming title to the said property.

4. Learned Senior Counsel for the petitioner submitted that in respect of this allegation, a suit in OS No.38 of 2011 was instituted by V.Seenuloganathan before the Additional Sub Judge at Puducherry and a compromise decree appears to have been passed on 19.09.2013. On a perusal of the compromise decree in OS No.38 of 2011 dated 19.09.2013, this Court finds that the plaintiff is V.Seenuloganathan, son of Venugopal; the second defendant is V.Seenuloganathan son of Venugobalou and the fourth defendant is V.Seenuloganathan, son of Venoupoulle. In the said suit, the defacto complainant is not a party and the compromise has been entered into by the first, second and third defendant and not the fourth defendant.

5. Learned Senior Counsel for the petitioner submitted that the petitioner had to face a prosecution in CC No.245 of 2011 and was acquitted by the Judicial Magistrate, Puducherry on 07.11.2013 and therefore, the second complaint for the same transaction is not maintainable. On a reading of the judgment in CC No.245 of 2011, it is seen that the prosecution has been launched by the Station House Officer, Grand Bazaar Police Station, Puducherry against one Krishnamurthy, Bama Parameswari, Sunildoss, Rajasekar, and Prakash. This petitioner is not an accused in the said prosecution and therefore, it cannot be contended that Section 300 Cr.P.C. will apply.

6. Learned Senior Counsel for the petitioner further submitted that yet another prosecution was launched with regard to the same transaction by District Crime Branch, Villupuram, in CC No.205 of 2010, in which the accused was acquitted by the District Munsif-cum-Judicial Magistrate, Vanur, on 02.07.2014. On a reading of the judgment in CC No.205 of 2010 dated 02.07.2014, this petitioner is not an accused, but one Krishnamoorthy is made as an accused. It is seen that there are three Seenuloganathan, in this case, with different different spellings of his father Venugopal, which definitely requires CBCID investigation.

7. The Supreme Court in State of Haryana v. Bhajan Lal [AIR 1992 SC 604] has laid down the parameters for quashing the FIR. The present case does not pass muster the law laid down therein. That apart, the anticipatory bail application filed by the petitioner in Criminal OP No.8928 of 2016, has been dismissed by this Court on 09.08.2016 holding that there is prima facie case for investigation.

8. In view of the above, this petition is devoid of merits and the same is dismissed. However, the respondent police is directed to thoroughly investigate the case and take action in accordance with law. Consequently CrI.Mp.No.9017/2016 is Closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

gms/jv

To

1. Inspector of Police,
CBCID, Puducherry.
- 2 The Public Prosecutor (Puducherry)
High Court, Madras.

+1 CC to Mr. K. Ma , Advocate Sr.No.49508

+1 CC to Government Pleader, Puducherry, Sr.No.49476

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PUR (CO)

MD : 19/09/2016

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