

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28.09.2016

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.OP.No.19435 of 2016

S.Balaji

... Petitioner

Vs

1.The Superintendent of Police,
Salem, Salem District.

2.The Inspector of Police (Crime Branch),
Salem, Salem District.

... Respondents

Criminal Original Petition filed under Section 482 of Cr.P.C., praying to issue direction to the respondents herein to register a First Information Report on the basis of the complaint dated 13.08.2016 preferred by the petitioner herein against the accused namely i) P.Ganesan, aged about 34 years, S/o.Ponnusamy, residing at 6/101, Keeripatty Village, Attur (Taluk), Thammampatty Road, Salem District ii) Ponnusamy, aged about 70 years residing at 6/101, Keeripatty Village, Attur (Taluk), Thammampatty Road, Salem District iii) Tmt.Selvi, aged about 38 years, W/o.Thiru Mani, residing at TSK Thottam, South Kattukottai, Narasingapuram, Attur Taluk, Salem District for having cheated various persons to the tune of Rs.1.92 Crores.

For Petitioner : Mr.S.Haja Mohideen Gisthi

For Respondents : Mr.C.Emalias, APP

O R D E R

This petition has been filed to issue direction to the respondents herein to register a First Information Report on the basis of the complaint dated 13.08.2016 preferred by the petitioner herein against the accused namely i) P.Ganesan, aged about 34 years, S/o.Ponnusamy, residing at 6/101, Keeripatty Village, Attur (Taluk), Thammampatty Road, Salem District ii) Ponnusamy, aged about 70 years residing at 6/101, Keeripatty Village, Attur (Taluk), Thammampatty Road, Salem District iii) Tmt.Selvi, aged about 38 years, W/o.Thiru Mani, residing at TSK Thottam, South Kattukottai, Narasingapuram, Attur Taluk, Salem District for having cheated various persons to the tune of Rs.1.92 Crores.

2. In *State of Punjab Vs. Davinder Pal Singh Bhullar and others* [(2011) 14 SCC 770], the Supreme Court has held as under:

"63. Application under Section 482 Cr.P.C. lies before the High Court against an order passed by the court subordinate to it in a pending case/proceedings. Generally, such powers are used for quashing criminal proceedings in appropriate cases. Such an application does not lie to initiate criminal proceedings or set the criminal law in motion. Inherent jurisdiction can be exercised if the order of the Subordinate Court results in the abuse of the "process" of the court and/or calls for interference to secure the ends of justice. The use of word "process" implies that the proceedings are pending before the Subordinate Court. When reference is made to the phrase "to secure the ends of justice", it is in fact in relation to the order passed by the Subordinate Court and it cannot be understood in a general connotation of the phrase. More so, while entertaining such application the proceedings should be pending in the Subordinate Court. In case it attained finality, the inherent powers cannot be exercised. The party aggrieved may approach the appellate/revisional forum. Inherent jurisdiction can be exercised if injustice is done to a party, e.g., a clear mandatory provision of law is overlooked or where different accused in the same case are being treated differently by the Subordinate Court. (emphasis supplied).

64. An inherent power is not an omnibus for opening a Pandora's box, that too for issues that are foreign to the main context. The invoking of the power has to be for a purpose that is connected to a proceeding and not for sprouting an altogether new issue. A power cannot exceed its own authority beyond its own creation."

3. Following the said judgment, this Court dismissed CrI.O.P. Nos.19197, 19198, 19343 and 19359 to 19363 of 2016 by a detailed order dated 27.09.2016.

4. In view of the above, this Criminal Original Petition is disposed of with liberty to the petitioner to follow the procedure laid down in the order dated 27.09.2016 passed by this Court in CrI.O.P. Nos. 19197, 19198, 19343 and 19359 to 19363 of 2016 and file a fresh petition, if necessary.

cla

Sd/-
Assistant Registrar (CS-)

/TRUE COPY/

Sub-Assistant Registrar

To

- 1.The Superintendent of Police,
Salem, Salem District.
- 2.The Inspector of Police (Crime Branch),
Salem, Salem District.
- 3.The Public Prosecutor,
High Court, Madras.

+1 CC Mr.S.Haja Mohideen Gisthi Advocate SR.No.56315

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NRJK

MSI 24/10/2016



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