

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

W.P.No.25369 of 2016

P.Selvaraj ... Petitioner

Vs

1.The Commissioner of Police,
O/o. The Commissioner of Police,
Veppery, Chennai.

2.The Inspector of Police (Crime),
C-3, Seven Wells Police Station,
Chennai - 79.

3.P.Thirumal ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Direction and more specifically Writ of Mandamus directing the 2nd respondent to handover the snatched 10 cheques Nos.232191, 232192, 232193, 232194, 232195, 232196, 232197, 232198, 232199 and 2321100 each drawn on Indian Overseas Bank, Ram Nagar Branch, Coimbatore.

For Petitioner : Mr.M.Dharanidharan

For Respondents: Mr.C.Emalias [for R1 & R2]
Additional Public Prosecutor
Mr.S.Namo Narayanan [for R3]

ORDER

The petitioner has filed this writ petition seeking a direction to the second respondent to handover the 10 cheques which was forcibly obtained from him.

2. For the sake of convenience, the parties will be referred to by their name. Selvaraj and Thirumal appear to have had some business transaction, in which, it is the case of Thirumal that Selvaraj owed money. While so, Thirumal gave a complaint to the Police against Selvaraj and petition enquiry was conducted in CSR.No.606 of 2015. Thirumal has filed Crl.OP.No.5398 of 2016, for a direction to the respondent Police to register an

FIR on his complaint dated 04.09.2015. It is alleged by Selvaraj that during the course of enquiry, the police forced Selvaraj to give cheques to Thirumal and accordingly he had issued 10 cheques to Thirumal for various amounts along with an undertaking letter dated 04.09.2015.

3. Admittedly, the cheques issued by Selvaraj had bounced and thereafter Thirumal had issued statutory notice under Section 138 of Negotiable Instruments Act to Selvaraj. While so, Selvaraj has filed the present Writ Petition for a direction to the second respondent-Inspector of Police, C-3, Seven Wells Police Station, Chennai, to return the cheques.

4. Heard Mr.M.Dharanidharan, the learned counsel for Selvaraj, Mr.C.Emalias, the learned Additional Public Prosecutor for the respondents 1 and 2; Mr.S.Namo Narayana, the learned counsel for Thirumal.

5. The learned Additional Public Prosecutor submitted that the cheques are not with the Police and that the Police had merely called both the parties, conducted enquiry and have closed CSR.No.606 of 2015 as early as in the year '2015.

6. Mr.S.Namo Narayana, the learned counsel appearing for Thirumal submitted that Selvaraj had given the cheques to Thirumal in discharge of liability and since the cheques got bounced, he is taking action under Section 138 of the Negotiable Instruments Act, in accordance with law.

7. In the considered opinion of this Court, the direction as prayed for by Selvaraj cannot be granted in a writ proceedings under Article 226 of the Constitution of India. It is open to Selvaraj to set up necessary defence, as and when Thirumal institutes prosecution under Section 138 of the Negotiable Instruments Act.

Accordingly, the Writ Petition is dismissed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To:

1.The Commissioner of Police,
O/o. The Commissioner of Police,
Veppery, Chennai.

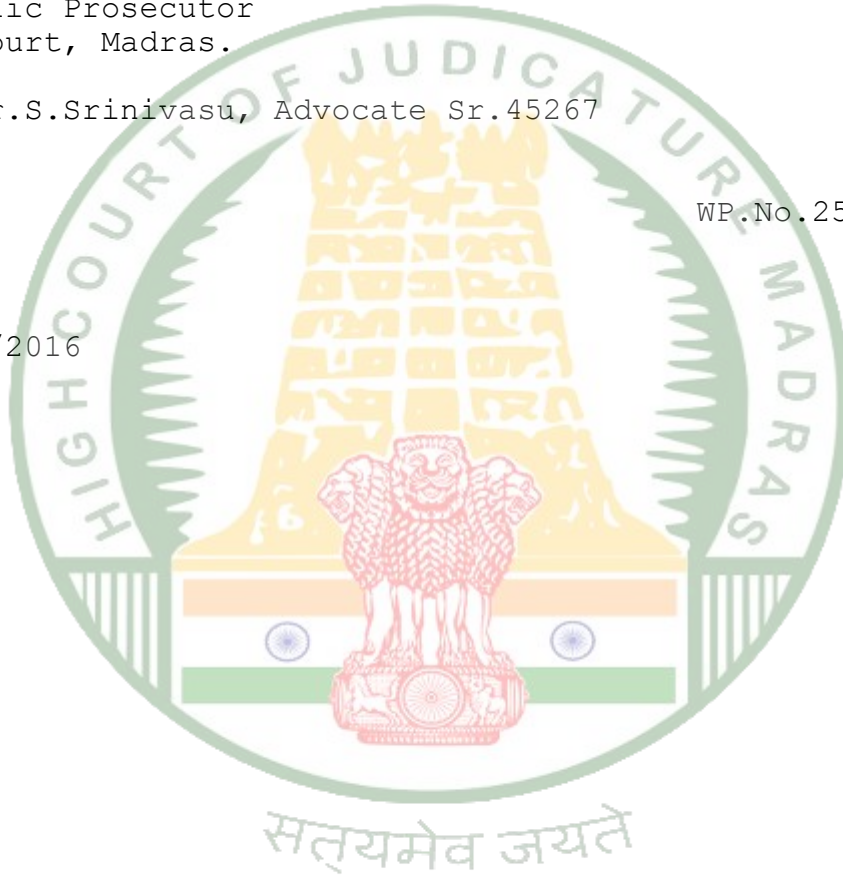
2.The Inspector of Police (Crime),
C-3, Seven Wells Police Station,
Chennai - 79.

3.The Public Prosecutor
High Court, Madras.

+!cc to Mr.S.Srinivasu, Advocate Sr.45267

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