

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2016

CORAM :

THE HONOURABLE MS. JUSTICE R.MALA

Crl.O.P.No.4746 of 2016

R.Periyasamy

.. Petitioner

Vs.

1.State of Tamil Nadu,
Rep. by its Commissioner of Police,
Egmore, Chennai - 600 008.

2.The Superintendent of Police,
Crime Branch,
Vepery, Chennai - 600 007.

.. Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., to direct the first respondent to reopen the investigation and transfer the same from the second respondent to CBCID to investigate and to prosecute the case.

For Petitioner : Mr.V.Prakash
Senior Counsel
for M/s.Shubharanjani Ananth

For Respondents: Mr.C.Emalias
Addl. Public Prosecutor

O R D E R

The petitioner has come forward with this petition seeking for a direction, directing the first respondent to reopen the investigation and transfer the same from the second respondent to CBCID to investigate and prosecute the case.

2.The learned counsel for the petitioner submitted that the petitioner is the owner of the property, he executed a sale deed in favour of the proposed accused for a total sale consideration of Rs.1,20 Crores and he received four cheques from the proposed accused. When two cheques were presented for encashment, both the cheques got dishonoured. He further submitted that the proposed accused has also given a letter of undertaking dated 27.06.2014 stating that if the cheques got dishonoured, the property will be re-conveyed. But without doing so, the proposed accused has mortgaged the property in Axis Bank.

Hence, complaint has been given but the said complaint was closed. Therefore, he prays for transfer of investigation from the second respondent to CBCID to investigate and prosecute the case.

3. Resisting the same, the learned Additional Public Prosecutor, would submit that the petitioner has already filed a petition in Crl.O.P.No.82 of 2016, wherein it was specifically mentioned that already enquiry was conducted and the complaint was closed and hence, nothing survives in the petition. He would further submit that in Crl.O.P.No.82 of 2016, liberty has been given to the petitioner to work out his remedy in the manner known to law, if he so desires, but without going before the appropriate forum, the petitioner has come forward with this petition. Hence, he prayed for dismissal of the petition.

4. Considered the rival submissions made by both sides and perused the typed set of papers.

5. The petitioner is the owner of the property and he executed a sale deed in favour of the proposed accused on 26.06.2014 for a total sale consideration of Rs.1.20 Crores and he has received four cheques. The proposed accused had also given a letter of undertaking on 27.06.2014 stating that if the cheques got dishonoured, the property will be re-conveyed. But when two cheques were presented for encashment, both the cheques got dishonoured. The proposed accused without re-conveying the property, has mortgaged the property in Axis Bank on 02.09.2014. Hence, the petitioner has given a complaint on 29.09.2014. After enquiry, the said complaint was closed. Further, the petitioner has already filed a petition in Crl.O.P.No.82 of 2016, wherein liberty was given to the petitioner to work out his remedy in the manner known to law since enquiry was conducted and the complaint was closed. In such circumstances, I do not find any reason the investigation and transfer the same from the second respondent to CBCID. Hence, the Criminal Original Petition deserves to be dismissed as devoid of merits.

6. In the result, the Criminal Original Petition is dismissed. However, the petitioner is entitled to pursue the alternative remedy available to him.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

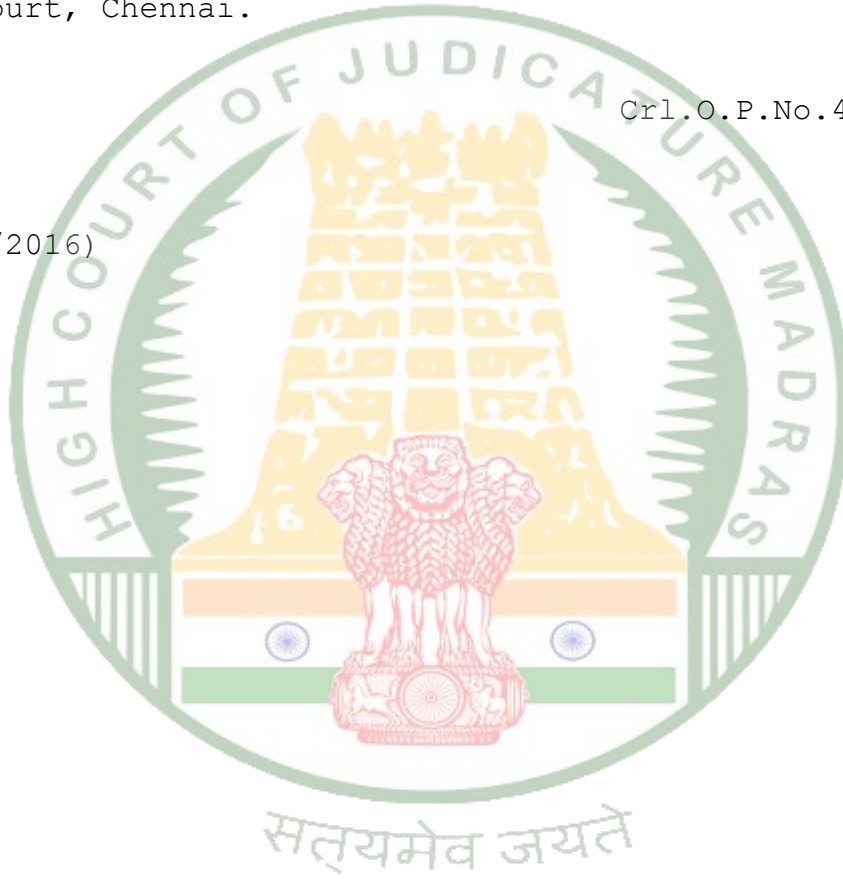
1.The Commissioner of Police,
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3.The Public Prosecutor
High Court, Chennai.

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ev(CO)
srg(17/03/2016)



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