

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Cr1.O.P.No.599 of 2016

Ashwin Karambaya

... Petitioner

Vs

The State,
rep. by the Inspector of Police,
Team II, Central Crime Branch,
Vepery, Chennai 600 007.

... Respondent

Criminal Original Petition filed under Section 482 Cr.P.C. to direct the respondent police to register FIR on the basis of the complaint given by the petitioner dated 30.10.2015 under appropriate provisions of law, investigate the matter and file a report before the concerned Court of Law.

For Petitioner : Mr.K.M.Subramaniam

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

O R D E R

This petition has been filed to direct the respondent police to register FIR on the basis of the complaint given by the petitioner dated 30.10.2015 and to investigate the matter and file a final report.

2. The petitioner herein is owning tea Estates at various places in Tamil Nadu. He purchased Glendale estate Adderley estate, both situated in Coonoor during 2005 from one M/s.Kothari Industrial Corporation Ltd., for a total sale consideration of Rs.32.5 crores. The authorised directors of Kothari had transferred 100% share holdings of these two estates in favour of M/s.G.B.Exim Private Ltd. The petitioner is the director of the said two estates. The petitioner company paid a sum of Rs.22 cores at the time of transfer of shares and the balance of Rs.10.30 crores was withheld to settle the term loans created over the said estates by Kothari with ICICI which was subsequently assigned to Kotak Mahendra Bank as per the deed of assignment dated 31.3.2010. Therefore, the petitioner estate was liable to pay the entire dues to Kotak Mahendra only. The said Kotak Mahendra had preferred SLPs before the Supreme court and the

petitioner estates have paid Rs.22 crores as per the order dated 23.9.2015 passed in SLP(Civil) No.4702 of 2012. After delivery of the said estates, the petitioner company is enjoying both the tea estates for the past 10 years. While so, the said Kothari, by letter dated 4.7.2015 claimed that if there was an undertaking by the petitioner company to the effect that the liability to the charge holder ICICI shall be cleared within 6 months and if there is any delay, the petitioner company should compensate Kothari by paying interest at the rate of 18% per annum on the balance sale consideration of Rs..10.30 crores. After a period of 10 years, the said Kothari had referred two letters dated 24.10.2005 and 30.11.2005 said to be signed by Directors, Mr.T.Sankaran (for Glenworth Estate) and Mr.N.Krishnaji Sukkal (for Adderley Estate) respectively acknowledging such an agreement to compensate such claims of Kothari, when absolutely there was no such agreement or understanding between the parties at no point of time. It is clear that the said Kothari had committed forgery and cheating by creating the said two letters in order to grab huge amount from the petitioner company. Hence, a complaint has been lodged with the respondent police. Since no action was taken so far, the present petition has been filed.

3. When the matter is taken up for consideration, learned Additional Public Prosecutor submitted that the matter is purely civil in nature and the petitioner has to work out its remedy before the civil court. He has also produced a closure report dated 16.12.2015.

4. Learned counsel for the petitioner submitted that the alleged letters were created by forgery on the part of Kothari and thus, the petitioner has sought for the above direction.

5. Irrespective of the submissions made on either side, this Court is of the opinion that since already the complaint has been closed, now this Court cannot give a positive direction. Hence, the criminal original petition is dismissed. However, the petitioner is at liberty to work out his remedy under section 156(3) Cr.P.C.

Vsi

Sd/-

Assistant Registrar (IV)

WEB COPY

/True Copy/

Sub-Assistant Registrar

To

1. The Inspector of Police,
Team II, Central Crime Branch,
Vepery, Chennai 600 007.
2. The Public Prosecutor,
High Court, Madras.

+1 C.C. To MR.K.M.Subramaniam, Advocate in SR.NO.2023

Cr1.O.P.No.599 of 2016

AK(CO)

sd : 25/01/2016



WEB COPY