

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Cr1.O.P.No.913 of 2016

K.Sureshkumar

... Petitioner

Vs

1. The Joint Commissioner of Police,
South Zone, Greater Chennai,
St. Thomas Mount, Chennai.
 2. The Assistant Commissioner of Police,
Selaiyur Range, St. Thomas Mount District,
Selaiyur, Chennai.
 3. The Inspector of Police,
Selaiyur Police Station,
Chennai.
- ...espondents

Criminal Original Petition filed under Section 482 Cr.P.C. to direct the 3rd respondent to register an FIR on the written information dated 13.07.2015 pending on the file of the 2nd respondent herein and investigate the same.

For Petitioner : Mr.M.Deivanandam.

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

O R D E R

This petition has been filed to direct the 3rd respondent to register the FIR on the written information dated 13.07.2015 pending on the file of the 2nd respondent herein and investigate the same.

2. The petitioner purchased land and RCC roofed house measuring 167.29 sq.meter with electricity connection in Plot No.8 measuring 1800 sq.ft., Om Sakthi Nagar, Sundaram colony, Rajakeezhpakkam, Chennai - 73 from one Mr.A.Ganesan, S/o

K.Arunachala Nadar, residing at 82, Tellers Avenue, 5th cross Street, Rajakeezhpakkam, Chennai -73 vide sale deed dated 23.03.2010 registered as Document No.1861/2011 on the file of Sub-Registrar, Selaiyur for a sale consideration of Rs.44,00,000/- and he also incurred the registration fees of Rs.15,00,000/-. The said A.Ganesan assured and declared that he is the absolute owner of the property. The petitioner purchased the said property by obtaining bank loan from HDFC, ITC centre, Anna Salai, to the tune of Rs.35,00,000/- and by pledging jewels. On 18.6.2015, the Assistant Engineer, P.W.D. (Irrigation), Padappai, issued a notice to the petitioner to evict from the property stating that the land belongs to Water Resources Organisation of Public Works Department. When the petitioner approached his Vendor, Mr.A.Ganesan and questioned about the same and demanded to repay the amount on account of eviction notice, he refused to repay the amount. The said Mr.A.Ganesan has committed an act of cheating to the tune of Rs.59,00,000/-. The petitioner's wife Mrs.S.Charumathi approached the 1st respondent to take action against Mr.A.Ganesan and to recover Rs.59,00,000/- by her written information dated 13.07.2015. The said information was forwarded to 2nd respondent. The 2nd and 3rd respondents enquired into the matter on 14.08.2015, but so far, no FIR was registered against the said Mr.A.Ganesan. Hence, 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. The petitioner having purchased the land and house, after verifying the documents, cannot seek the remedy before this Court.

4. However, learned counsel for the petitioner submitted that there is a clear element of cheating on the part of Mr.A.Ganesan, the vendor. Hence, he has sought for a suitable direction.

5. Considering the submissions made on either side, this Court directs the petitioner to give a fresh complaint to the 3rd respondent police within a period of one week from the date of receipt of a copy of this order. On receipt of the same, the 3rd respondent police is directed to conduct an enquiry on complaint given by the petitioner and upon enquiry, if the materials are gathered indicating any cognizable offence, he is directed to proceed further in accordance with law as early as possible. In the course of enquiry, if no prima facie is made out or the matter is civil in nature, he is directed to pass appropriate orders on the complaint made by the petitioner.

6. The criminal original petition is disposed of accordingly.

sd/-
Assistant Registrar (Cs-VII)

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Sub-Assistant Registrar

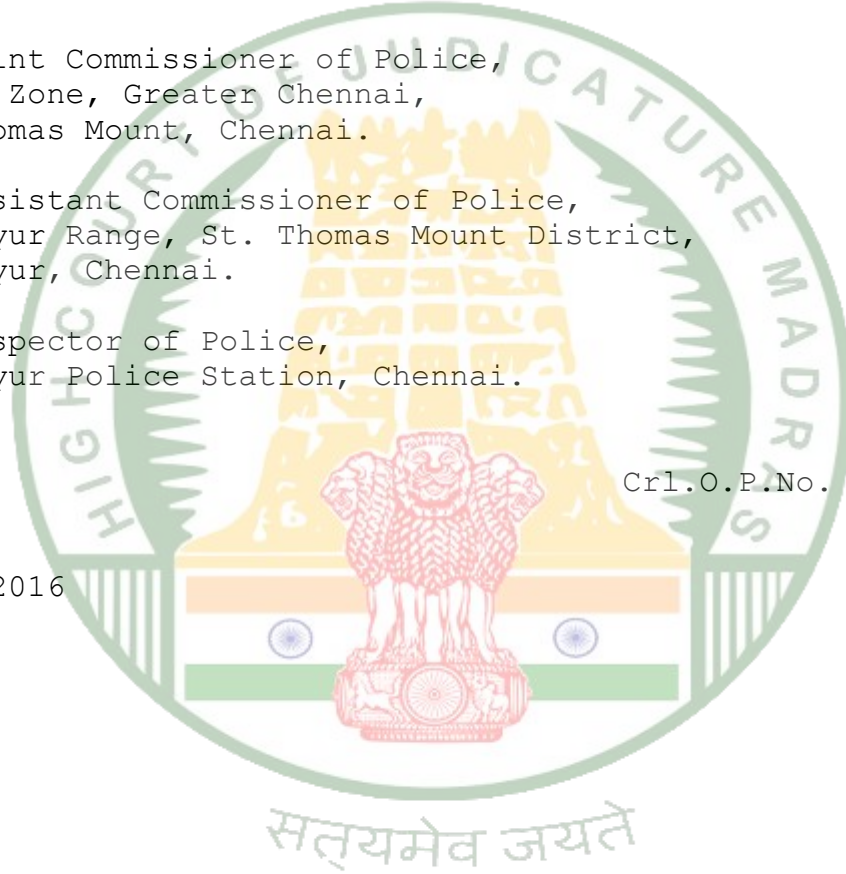
vsi

To

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2. The Assistant Commissioner of Police,
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Selaiyur, Chennai.
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CO-SK
JD 02/02/2016



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