

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.43242 of 2016

ORDER:

This writ petition under Article 226 of Constitution of India is filed seeking a writ of certiorari to call for the records relating to Crime No.189 of 2016 on the file of 2nd respondent and consequently, quash the same as illegal and arbitrary and violative of provisions of Employees Provident Fund & Miscellaneous Provisions Act, 1952 (for short 'the Act').

The case of the petitioner is that on the complaint lodged by the 3rd respondent alleging violation in remitting the employees' contribution to the provident fund, the 2nd respondent registered a case in Crime No.189 of 2016 for the offences punishable under Sections 406, 409 IPC read with Employees Provident Fund & Miscellaneous Provisions Act, 1952. It is submitted that the subject-matter of the complaint is already pending adjudication before the authorities under the provisions of the Act and that the second FIR with similar allegations for subsequent period is not maintainable under law.

The learned Additional Government Pleader for Home submitted that since a complaint is lodged by the 3rd respondent, the 2nd respondent registered the present F.I.R. in accordance with law.

Now, the learned counsel for the petitioner submits that the petitioner is ready to cooperate for the investigation, but, however, he is apprehending arrest and harassment in the hands of 2nd respondent-police.

Considering the facts and circumstances of the case, the 2nd respondent is directed to complete the investigation in Crime No.189 of 2016 without arresting the petitioner and file a final report, if any, in

accordance with law. The petitioner is directed to appear before the 2nd respondent-police as and when required during the course of investigation.

Accordingly, the writ petition is disposed of. No costs.

Pending Miscellaneous Petitions, if any, shall stand closed.

RAJA ELANGO,J

14.12.2016.
Tsr



