

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

Cont.P.No.33 of 2017

Mr.Selvam .. Petitioner
Vs.

Mr.Suresh Kumar,
The Inspector of Police,
District Crime Branch,
District Superintendent of Police Office,
Nethimedu,
Salem District. ... Respondent

Contempt Petition filed under Section 11 of the
Contempt of Courts Act for disobedience of the order of
this Court in CrI.O.P.No.15158 of 2015, dated 18.07.2016.

For Petitioner : Mr.A.Ramesh
For Respondent : Mr.Rajarathinam,
Public Prosecutor

ORDER

सत्यमेव जयते

The petitioner has come forward with the present
Contempt Petition saying that an amount of Rs.14,00,000/-
(Rupees fourteen lakhs only) have been defrauded by the
accused and that this Court has made an observation in
CrI.O.P.No.15138 of 2015 that the custodial interrogation
of the accused is required. In an anticipatory bail
petition, this Court cannot direct the respondent/ Police

<https://hcservices.ecourts.gov.in/hcservices/> to take a particular person under custody and it is left to

the discretion of the police to take the accused into

custody, depending on the facts and circumstances of each case. In this case, since the accused has been absconding, charge sheet has been filed. Learned counsel for the petitioner submitted that even though the charge sheet has been filed, it has not been taken on file by the Court.

2. Learned Public Prosecutor appearing for the respondent has submitted that the investigating officer was one Ms.R.Sundrambal, Sub Inspector of Police, District Crime Branch, Salem District and that the post of Inspector of Police is vacant in District Crime Branch, Salem from 17.12.2015. Since there is prima-facie case against the accused, the Charge sheet has already been filed as early as in 30.09.2016 before the Judicial Magistrate Court No-2, Attur under Sections 406, 420, 294(b) and 506(i) IPC. It is firmly contended by the learned Public Prosecutor that as there is prima facie case against the accused, absconding charge sheet has been filed. However, he submitted that it has not been taken on file. This Court is convinced with the argument of the intervenor/de-facto complainant with regard to the fraud alleged against the accused and rejected the Anticipatory Bail petition. It does not mean that when once the Anticipatory Bail is dismissed, in all cases, the Police will have to arrest the accused persons and take them into custody. In support of this point,

learned Public Prosecutor has relied on a judgment of the Supreme Court reported in 2003 (2) SCC 649 (M.C.Abraham

Vs. State of Maharashtra).

3. Since the charge sheet has already been filed in Cr.No.2 of 2015 for the said offences under Sections 406, 420, 294(b) and 506(i) IPC on 30.9.2016, the learned Judicial Magistrate No-2, Attur is expected to act on the said charge sheet against the A1 to A5 and proceed in accordance with law.

4. I find that this is not a case for contempt. Hence the contempt petition is closed.

SD/-
JOINT REGISTRAR(OS) (i/c)
cs/sts

//Certified to be true copy//

Dated at Madras this the day of 2017.

COURT OFFICER(O.S.)

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SS/CO/18/07/2017

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To

1. The Inspector of Police,
District Crime Branch,
District Superintendent of Police Office,
Nethimedu, Salem District.
2. The Public Prosecutor, High Court, Chennai.
3. The Judicial Magistrate No-2, Attur .