

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.03.2018

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THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.6375 of 2018

Chennai Airport Prepaid Meter
Taxi Owner-Drivers Union,
Rep.by its Secretary,
M.B.Sugumar

... Petitioner

Vs.

- 1 The Director,
CBI,
Plot No.5B, CGO Complex,
Lodhi Road, New Delhi.
- 2 The Joint Director and Head Zone,
Chennai Zone,
3rd Floor E.V.K.Sampath Building,
College Road, Chennai.
- 3 The Competent Officer,
Anti Corruption Branch,
CBI,
3rd Floor Sasthri Bhavan,
No.26, Hadow's Road,
Nungambakkam, Chennai-26

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to direct the 3rd respondent to register the case on the basis of the complaint given by the petitioner on 27.10.2017 and to investigate the same and file the final report before the Court in accordance with law.

For Petitioner : Mr. D.Rajagopal
For Respondents : Mr.K. Srinivasan
Special Public Prosecutor

ORDER

This petition is filed under Section 482 of Cr.P.C seeking order of this Court to direct the CBI to register the case on the basis of the complaint given by the petitioner on 27.10.2017, to investigate the same and file a final report

before this Court in accordance with law.

2 The contention of the petitioner is that misappropriation, cheating and other penal offences had been committed by the trade union by name Chennai Airport Prepaid Meter Taxi Owner-Drivers Union. The specific allegation of the petitioner herein is that in the year 2010, The Airport Authority of India had introduced "Service Charge System" i.e. for every drop of the vehicle an amount of Rs.20/- was charged from the passengers through computerized bills, which was subsequently increased to Rs.30/- out of which Rs.5/- was apportioned for the union. In the manner of collecting the said fee, it is alleged that Rs.1,55,77,000/- was misappropriated by the union office bearers within the period of 25 months from 2010 to 2012.

3 From the typed set of papers and the submission of the learned Special Public Prosecutor for CBI cases, this Court finds that pursuant to the order passed by this Court in Crl.O.P.No.6489 of 2014, filed by Mr.M.V.Sugumar, who is also petitioner herein, this Court finds that on 05.12.2014, based on the very same complaint, the respondent-CBI was directed to conduct preliminary enquiry. It was brought to the notice of this Court that after conducting preliminary enquiry, a Closure Report dated 30.03.2015, has been filed and the Closure Report was also served to the petitioner on the same day. Recording the facts, this Court has closed the petition on 01.04.2015.

4 While fact being so, very same M.B.Sugumar, representative of Chennai Airport Prepaid Meter Taxi Owner-Drivers Union has preferred the present petition for the very same relief.

5 The learned counsel for the petitioner would submit that as per the observation made by the Hon'ble Supreme Court in Lalita Kumari Vs. Government of Uttar Pradesh [(2014) 2 SCC 1] case, the complaint given by him ought to have been registered as per Section 154 and the preliminary enquiry which is informal guidance of CBI cannot help CBI to go away without registration.

6 The learned Special Public Prosecutor would submit that based on the complaint, alleging misappropriation and cheating and as per the direction of this Court, enquiry was conducted. Over 40 witnesses were examined. The final report reveals that no criminality for registering the case was made out. Non remittance of Rs.8,92,850/- by the Union into the accounts of Airport Authority of India, in respect of terms of the contract between the Union and Airport Authority of India. Therefore, CBI has suggested to the Airport Authority to collect the dues to the tune of Rs.8,92,850/- from the office bearers of the Association and remit the same into the account of Airport

Authority of India.

7 The learned Special Public Prosecutor drew the attention of this Court to para 41 of Closure Report wherein the conclusion of the enquiry is extracted:

"Thorough enquiry conducted by CBI by examining 40 witnesses, including the complainant and officials of Airports Authority of India, and perusal of relevant documents/communications between Airports Authority of India and the Chennai Airport Pre-Paid Taxi Owners-Driver's Sangam/Association, revealed that no criminal offence is made out. However, departmental action against Shri N.Jayakumar, the then Dy. General Manager (Commercial), Airports Authority of India, Chennai (now Joint General Manager/Commercial, Airports Authority of India, Kolkata) and Shri M.Selvanayagam, the then Manager (Commercial Department), AAI, Chennai (now AGM) has been recommended, as they failed to conduct proper check regarding operating of out-table counters at the Airport complex without the permission of AAI and collection of Service charges by the Association resulting in non-remittance of Rs.8,92,850/- to the accounts of AAI. Further, the Airports Authority of India has been instructed to collect the dues to the tune of Rs.8,92,850/- from the then office bearers of the Association and remit into the accounts of Airports Authority of India."

8 Now, after three years, the petitioner herein as a representative of the Union, has come out with the very same complaint and the learned counsel for the petitioner submits that he has some more materials to substantiate his complaint.

9 This Court is unable to understand as to why he has waited for three years after the Closure Report which was served on him as early as on 30.03.2015. Across the bar, the learned counsel for the petitioner says that he has obtained information through Right to Information Act. It is not a matter of right, that any piece of paper given as complaint has to be registered. That is not spirit of Lalitha Kumari's judgment also. If the submission made by the petitioner is entertained, nobody will be spared from carrying a complaint against them without any material. When the allegations made by Mr. M.B.Sugumar had been enquired by CBI and has come out with report and the copy of the report furnished to the petitioner herein. If, he had collected any new material from RTI, to prove fraud and misappropriation, it is for him to place the record before the appropriate authority, which he has failed and this Court cannot be used as a tool to agitate or to re-agitate the issues.

10 If the petitioner is not satisfied with the report of CBI, law has provision for him to agitate by way of private complaint. He need not trouble the CBI without adequate material, while from the material what he has presented to the investigation agency does not make out a criminal case for prosecution. Therefore, with the said observation, this Criminal Original Petition stands disposed of.

s/d-

Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

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To

- 1 The Director,
CBI,
Plot No.5B, CGO Complex,
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3rd Floor Sasthri Bhavan,
No.26, Hadow's Road,
Nungambakkam, Chennai-26
- 4 The Special Public Prosecutor for CBI cases,
High Court, Madras.

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KJI (CO)
SP(23/03/2018)