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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 01.02.2019

CORAM

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

CRL. O.P. NO. 18481 OF 2018

Saraswathi

.. Petitioner /
Defacto Complainant

- Vs -

The State, rep. By
The Inspector of Police
District Crime Branch
Coimbatore District.
(Crime No.14/2009)

.. Respondent / Complainant

Criminal Original petition filed u/s 482 Cr.P.C. Praying this Court to direct the respondent to file a final report in Crime No.14 of 2009 which is pending on the file of the respondent police.

For Petitioner : Mr. R.Thirumoorthy

For Respondent : Ms. Kritika Kamal. P., GA (Crl. Side)

ORDER

On 14.12.18, this Court passed the following order in the above petition :-

"On the directions of this Court, Ms.A.Chandra Kantha, Inspector of Police, District Crime Branch, Coimbatore is present before this Court. On 30.08.2018, this Court passed the following order :

"On the complaint lodged by the petitioner, the District Crime Branch, Coimbatore, registered a case in Crime No.14 of 2009 on 21.05.2009, for the offences under Sections 419, 420, 423 and 468 of IPC against Muthusamy and 4 others.

2. It is the case of the petitioner/defacto complainant that Muthusamy [A1], Duraisamy [A2] and Chinnaasamy [A3] are her brothers and Ponnammal [A4] and Chinammal [A5] are her sisters-in-law; the accused had fabricated the



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Partition Deed and had forged the thumb impression of the defacto complainant and had the document registered as Document No.1545 of 2000 in the Office of the Sub-Registrar, Annur; after the registration of the FIR, there was a lull in the investigation for more than a decade, prompting the defacto complainant to approach this Court with the above prayer.

3. On the directions of this Court, Mr.R.Pandiya Rajan, Superintendent of Police, Coimbatore District and Ms.A.Chandra Kantha, Inspector of Police, District Crime Branch, Coimbatore are present.

4. The Inspector of Police has filed a status report dated 30.08.2018, wherein, it is stated that when the Investigating Officer approached the Sub-Registrar, Annur to obtain the thumb impressions from the Impression Register relating to Document No.1545 of 2000, she was informed that the said Register in original has been submitted to the Court of the District Munsif-cum-Judicial Magistrate, Palladam in O.S.No.26 of 2001. It is further stated in the status report that when the Investigating Officer approached the District Munsif-cum-Judicial Magistrate, Palladam, she was informed that the said document has been sent to the Court of the Principal District Munsif, Coimbatore on 07.08.2012 in D.No.428 of 2012, from where she understood that the said document has been sent to the Court of the District Munsif, Sulur. The original case in O.S.No.26 of 2001 has been renumbered as O.S.No.1005 of 2017 and the same is pending on the file of the District Munsif Court, Sulur. When the Investigating Officer approached the District Munsif, Sulur, she was informed that the said record is not available in the Court. The fact remains that an important record, which the Office of the Registrar should maintain for years on end is now missing and is not available.

5. Therefore, this Court directs the Registrar (Vigilance) of the High Court, to conduct an enquiry on this aspect and submit a report to this Court. Six weeks time is granted for filing the report.

6. In the mean time, the investigation in Crime No.14 of 2009 shall proceed further and the police shall take all necessary steps to



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secure the original Partition Deed, which is the subject matter of the offence. The Superintendent of Police, Coimbatore District, is directed to closely monitor the investigation in Cr.No.14 of 2009 that is conducted by the Inspector of Police, District Crime Branch, Coimbatore.

Post the matter on 12.10.2018 at 2.15 p.m."

2.Pursuant to the above order, the Registrar (Vigilance), High Court conducted a thorough enquiry and has traced the two original thumb impression registers, Volume No.196 and 197, of Sub Registrar, Annur, in the Court of District Munsif, Palladam. The Registrar (Vigilance) has also submitted a detailed report dated 10.12.2018 to this Court along with the photocopy of the two registers, wherein, she has lamented as follows :

"It is painful to note that most of the staff of the lower court are either lethargic of having less training to handle the case bundles. Due to their carelessness, innocent litigants are made to run from pillar to post for decades without getting speedy justice."

This Court is in total agreement with the views of the Registrar (Vigilance) and this Court is also aware that bundles go frequently missing from Courts, thereby, putting the Judicial Officers in peril. At this juncture, this Court does not want to go into the larger issue of how to stem the rot.

3. This Court places on record its appreciation to Ms.R.Poornima, Registrar (Vigilance) for the efforts taken by her to trace the original registers.

4. On instructions, learned Government Advocate (Crl. Side) submitted that the Police seized the original Partition Deed from the accused and sent it for Expert opinion, with regard to the availability of the signature or thumb impression of the de facto complainant/Saraswathi in that. After receiving the report from the Expert to the effect that document does not contain the signature or thumb impression of Saraswathi, W/o.Shanmugam, the Police have filed Final Report against the accused before the Judicial Magistrate, Mettupalayam and the same has not yet been taken on file.

5.The learned Government Advocate (Crl. Side) submitted that the thumb impression register that has now been found out, can also be put to use by the police to further strengthen the prosecution against the accused. Therefore, this Court issues the



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following directions:

- (a) The District Munsif, Palladam is directed to hand over the original thumb impression registers Volume No.196 and 197 to the District Munsif, Sulur immediately.
- (b) After receipt of the registers, the Inspector of Police, District Crime Branch, Coimbatore is directed to take the Expert, with the necessary equipments to the Court of the District Munsif, Sulur and take photographs/copies of the relevant pages of the register;
- (c) The Expert shall hand over one set of photographs/copies to the District Munsif, Sulur and the other set to Ms.Chandra Kantha, Inspector of Police, District Crime Branch, Coimbatore;
- (d) Thereafter, the District Munsif, Sulur shall, by a special messenger hand over the two original thumb impression registers volume No.196 and 197 to the Sub Registrar, Annur;
- (e) Liberty is given to the Investigating Officer in DCB Crime No.14 of 2009 to file an application for further investigation under Section 173(8) before the Judicial Magistrate, Mettupalayam, for conducting further investigation with regard to the entries in the thumb impression register and file supplementary report.

6. It is made clear that the District Munsif, Palladam and the District Munsif, Sulur shall ensure that the original registers reach the Sub Registrar, Annur, within two weeks from the date of the Expert taking copies as directed in clause (b) of paragraph No.5 supra. Until then, the registers shall be in the safe custody of the respective Judicial Officers. After handing over registers to the Sub Registrar, Annur, the District Munsif Sulur, shall send a report to this Court and to the Registrar (Vigilance). The Deputy Registrar (Criminal Side), High Court is directed to send the photocopy of the thumb impression registers No.196 and 197, that has been submitted by the Registrar (Vigilance) along with her report dated 10.12.2018 to the Court of District Munsif, Sulur to be kept along with O.S.No.1005 of 2017. The report dated 10.12.2018 submitted by the Registrar (Vigilance) shall be kept along with this case records."



2. Pursuant to the aforesaid order, the learned District Munsif, Palladam, has sent a report that the thumb impression registers have been handed over to the District Munsif, Sulur. The learned District Munsif, Sulur, has also sent a report that the police have photographed the fingerprints and the original registers have been handed over to the Sub Registrar, Annur.

3. Recording the above reports, this criminal original petition is closed.

Sd/-
Assistant Registrar(CS-III)

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Sub Assistant Registrar

GLN

To

- 1) The Inspector of Police,
District Crime Branch,
Coimbatore District.
- 2) The Sub Registrar, Annur.
- 3) The Superintendent of Police,
Coimbatore.
- 4) The District Munsif-cum-Judicial Magistrate,
Palladam
- 5) The Principal District Munsif,
Coimbatore
- 6) The District Munsif,
Sulur.
- 7) The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.R.Thirumoorthy, Advocate, S.R.No.8882

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RV(CO)
SSM(06/03/2019) .