

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

Crl.O.P.No.26545 of 2017

Madhu Vasudevan

... Petitioner

Vs.

1.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai - 7.

2.The Additional Deputy Commissioner of Police,
Greater Chennai,
Central Crime Branch - II,
Vepery, Chennai - 7.

3.The Inspector of Police,
EDF - II, Team IX A,
Central Crime Branch - II,
Vepery, Chennai - 7

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to direct the respondents more particularly the third respondent to conduct a fresh or further enquiry on the complaint of the petitioner dated 23.05.2017 vide RC.No.37/DC/CCB-II/Camp/2017 by summoning the accused and deal with accused in accordance with law.

For Petitioner : Mr.H.Suresh Baabu

For Respondents : Mrs.Krithika Kamal
Government Advocate (Crl.Side)

ORDER

This petition has been filed by the petitioner to direct the respondents more particularly the third respondent to conduct a fresh or further enquiry on the complaint of the petitioner dated 23.05.2017 vide RC.No.37/DC/CCB-II/Camp/2017 by summoning the accused and deal with accused in accordance with law.

2. From the averments made in the complaint, it is seen that the complainant had executed a Deed of Power of Attorney dated

22.09.2007 in favour of Mrs.Rema Vasudevan. Subsequently, on 26.09.2009, the Deed of Power of Attorney dated 22.09.2007 came to be cancelled by the complainant. This fact has also been indicated to the power agent by the petitioner herein by his letter dated 10.10.2009.

3. It is the grievance of the complainant that after the cancellation of deed of Power of Attorney, the subject property came to be sold and therefore, he had contacted the Commissioner of Police through a phone call and made a complaint, since he was residing outside India. Pursuant to his phone call, the Commissioner had directed the petitioner to come to India and lodge a complaint. Accordingly, the complaint came to be lodged. Since there was no further progress in the complaint, the petitioner herein had filed a Petition in Crl.O.P.No.22402 of 2017 before this Court, seeking registration of his complaint and by an order dated 24.10.2017, the third respondent therein was directed as follows:

"5. In the result, the petitioner is directed to give a copy of the complaint dated 23.05.2017 to the Station House Officer having territorial jurisdiction over the issue. On receipt of the said copy of the complaint, the concerned Station House Officer shall adhere to the following directions.

1) If the information received by the 3rd respondent discloses commission of a cognizable offence, then, the same shall be forthwith registered.

2) If an information received does not disclose a cognizable offence, the 3rd respondent shall conduct a preliminary inquiry to ascertain whether cognizable offence is disclosed therein or not and such inquiry shall be completed within a period of fifteen days from the date of information.

3) If the inquiry discloses the commission of a cognizable offence, the FIR must be registered, if not already registered or closed.

4) If the preliminary inquiry ends in closing the complaint, the closure report must be recorded along with the reasonings and a copy of the same shall be furnished to the complainant within one week.

5) All information relating to cognizable offences whether resulting in

registration of FIR or leading an inquiry must be reflected in the general diary/station diary/daily diary of the 3rd respondent's police station.

6. In the result, the Criminal Original Petition is allowed with the above directions."

4. Pursuant to the order of this Court, a closure report came to be filed, wherein, one of the observations made by the third respondent is that the complainant had approached the police for an incident that occurred in the year 2009.

5. I am unable to comprehend as to how that could be a ground for the closure of the report, particularly when this Court had entertained the petitioner's earlier petition and had directed the third respondent to conduct an enquiry on the averments in the complaint. What was required on the part of the third respondent was to look into the averments in the complaint and satisfy himself as to whether any cognizable offence has been made out or not.

6. In this background, it is seen from the averments made in the complaint that cognizable offences have been clearly made out, since the power agent had fraudulently sold the property after the cancellation of the deed of Power of Attorney, for the purpose of illegal gain. As such there was no justification on the part of the third respondent to close the petitioner's complaint.

7. Accordingly, the closure report in RC.No.37/DC/CCB-II/Camp/2017 is set aside. The third respondent is directed to register the petitioner's complaint dated 23.05.2017 and conduct an appropriate investigation, in accordance with law and file a final report, as expeditiously as possible.

8. With the above observation, the Criminal Original Petition stands allowed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai - 7.

2.The Additional Deputy Commissioner of Police,
Greater Chennai,
Central Crime Branch - II,
Vepery, Chennai - 7.

3.The Inspector of Police,
EDF - II, Team IX A,
Central Crime Branch - II,
Vepery, Chennai - 7.

4.The Public Prosecutor,
High Court, Madras.

+3cc to Mr.H.Suresh Babu, Advocate, S.R.No.9623

Crl.O.P.No.26545 of 2017

RRK(13/02/2018)



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