

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 16.07.2018

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THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.17917 of 2018

V.Balasubramani

.. Petitioner

Vs

1. The Inspector of Police,
Central Crime Branch,
Vepery, Chennai.

2. Deputy Superintendent of Police,
Central Bureau of Investigation,
Chennai.

.. Respondents

Criminal Original Petition filed under Section 482 of Cr.P.C., praying to direct the 2nd respondent to register a case based upon the complaint dated 25.1.2014 by withdrawing from the 1st respondent and initiate investigation.

For Petitioner : Mr.R.Rajarathinam

For Respondents : Ms.Kritika Kamal

Govt. Advocate [Crl. Side]

O R D E R

This Criminal Original Petition has been filed to direct the 2nd respondent to register a case based on the complaint dated 25.01.2014 by withdrawing from the file of the 1st respondent and initiate investigation.

2.Heard the learned counsel for the petitioner and the learned Government Advocate [Crl. Side] appearing for the respondents.

3.The petitioner is the owner of a property measuring 7854 sq.ft. in Nolambur village along with his mother Vasantha and sister Nirmala, they having inherited the same from their father Venkatesan. The petitioner, Vasantha and Nirmala entered into a Joint Venture Agreement with one R.S. Constructions and executed a Power of Attorney dated 27.04.2005 in favour of R.S. Constructions. It appears that R.S. Constructions had applied

for huge loans with the Union Bank of India, Adyar branch and in collusion with the Branch Manager of the said Bank, loans were obtained and were misused. In this regard, on the complaint given by the Union Bank of India, the CBI registered a case in Crime No.5 of 2008 on 31.03.2008 and after completing the investigation, have filed a charge sheet in C.C.No.29 of 2009 before the XI Additional CBI Court, Chennai against the Branch Manager, Union Bank of India and Subramaniam, Prop. of R.S. Constructions for various offences under Prevention of Corruption Act and Indian Penal Code. In that prosecution, the loan that was sanctioned by A1 to A2, in respect of petitioner's property is also a subject matter. It appears that R.S. Constructions had sold undivided share of the land measuring 484.6 sq.ft. to one Amjed Ali by a Deed of Sale in document No.2306 of 2005 dated 05.05.2005. In other words, R.S. Constructions had agreed to build a flat to an extent of 820 sq.ft. for Amjed Ali, pursuant to which, the undivided share of the land was sold to Amjed Ali as stated above. It is the grievance of the petitioner that Amjed Ali had executed a Power of Attorney in favour of one Jagan vide document No.3281 of 2008 dated 10.12.2008 and that, said Jagan in turn had sold the property vide Sale Deed document No.5509 of 2008 dated 31.12.2008, in favour of one Shyamala.

4.Mr.R.Rajarithnam, learned counsel for the petitioner contended that the said Amjed Ali is a fictitious person, even according to the FIR.

5.However, the learned Government Advocate [Crl. Side] submitted that the said Amjed Ali was examined in flesh and blood as PW10 in C.C.No.29 of 2009 on 10.02.2015 and therefore, it cannot be stated that he is a non-existent person. The petitioner has gave a complaint to the respondent Police seeking police investigation, in respect of the alienation done by Amjed Ali and other purchasers of the undivided shares of the petitioner's property from R.S. Constructions.

6.Today, Mr.K.Ponnusamy, Assistant Commissioner of Police, CCB, Greater Chennai Police is present before this Court.

7.Learned Government Advocate [Crl. Side] submitted that pursuant to the directions passed by this Court in Crl.O.P.No.4997 of 2014, the Assistant Commissioner of Police, CCB, conducted enquiry on the petitioner's complaint and the same was closed on 01.12.2014. Thereafter, the petitioner has given a fresh complaint in CMP.No.2020 of 2015 before the learned Judicial Magistrate, Ambattur and a direction has been issued under Section 156[3] Cr.P.C. by the learned Magistrate. That apart, the petitioner has also obtained a direction in Crl.O.P.No.6260 of 2017 dated 20.09.2017 to the respondent Police to conduct enquiry on his complaint dated 25.01.2014,

which is said to be pending. The respondent Police is directed to complete the enquiry on the said complaint and give the report to the petitioner within four weeks from the date of receipt of a copy of this order.

With the above direction, this Criminal Original Petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Inspector of Police,
Central Crime Branch,
Vepery, Chennai.
- 2.The Deputy Superintendent of Police,
Central Bureau of Investigation,
Chennai.
- 3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.R.Rajarithnam, Advocate sr.no.47244

nr 23/07/2018

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