

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 30.10.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.24918 of 2018

G.V.Krishnamoorthy

.. Petitioner

Vs

1.The Superintendent of Police,
Kancheepuram District,
Kancheepuram.

2.State by,
The Inspector of Police,
District Crime branch,
Kancheepuram District,
Kancheepuram.

.. Respondents

Criminal Original Petition filed under Section 482 of Cr.P.C., praying to set aside the closure report dated 06.10.2018 based on the preliminary enquiry conducted by 2nd respondent and direct the 2nd respondent to re-investigate or further investigate on the complaint dated 06.06.2018 numbered as Complaint Serial No.1091 of 2018 on the file of the Inspector of Police, District Crime Branch, Kancheepuram District, Kancheepuram the 2nd respondent herein.

For Petitioner : Mr.N.R.Kaushik

For Respondents : Mrs.M.Prabavathi, APP

O R D E R

The total extent of land measuring around 2.9 acres in Survey No.318/1 in Pazhamathur village, Maduranthagam Taluk originally belong to one Geetha. The said Geetha died intestate on 28.07.2012 leaving behind as her only legal heirs Krishnamoorthy her husband and son Sriram. Krishnamoorthy and Sriram sold the land to one Shridhar Mayavan on 22.09.2017 by document No.9451 of 2017 for a total sale consideration of Rs.2,19,00,000/-. While that being so, one Thanigachalam is said to be a land

shark has allegedly fabricated a sale agreement purported to have been executed on 15.05.2011 by the deceased Geetha agreeing to sell 15 cents of the land to him for a total sale consideration of Rs.10,50,000/-. On the strength of this forged agreement, Thanigachalam has filed Suit for specific performance in O.S.No.281 of 2017 before the Principal District Court, Chengelpet, against Krishnamoorthy, Sriram and Sridhar Mayavan. After receipt of Suit summons, Krishnamoorthy, made enquiries and learnt that the suit has been filed based on forged sale agreement. Therefore, Krishnamoorthy filed a petition in C.M.P.4620 of 2018 under Section 156(3) Cr.P.C before the Judicial Magistrate No.II, Chengelpet, who has by order dated 19.08.2018 directed the Police to conduct investigation. On the contrary, the District Crime Branch conducted a preliminary enquiry and have closed the complaint on 06.10.2018, on the short ground that the impugned sale agreement is in the Civil Court in O.S.No.281 of 2017 and therefore, the same cannot be obtained. Challenging the said Closure Report, Krishnamoorthy is before this Court.

2.Heard the learned counsel for Krishnamoorthy and the learned Additional Public Prosecutor.

3.Today, on the directions of this Court, Mr.E.Babu, Sub Inspector of Police, DCB, Kancheepuram, who conducted enquiry is present.

4.Under normal circumstances, this Court will not interfere into such matters and would have directed the complainant to workout his remedies by approaching the Magistrate under Section 156(3) Cr.P.C. In this case, the complainant has approached the Magistrate and has also obtained orders under Section 156(3) Cr.P.C for investigation by the District Crime Branch, Kancheepuram. The District Crime Branch should have registered a regular FIR and had instead, conducted a preliminary enquiry and have closed the complaint on the aforesaid ground, which is not sustainable.

5.The Magistrate was satisfied that the complaint disclosed the commission of cognizable offence and that is why, she had ordered Police investigation under Section 156(3) Cr.P.C. In Iqbal Singh Marwah vs. Meenakshi Marwah (AIR 2005 SC 2119), the Constitution Bench of Supreme Court has held that if a document is forged outside the Court and it is submitted to the Court, the provisions of Section 195 Cr.P.C r/w Section 340 Cr.P.C. will not apply and the Police investigation cannot be precluded. Hence, this Court has no other alternative, set aside the Closure Report dated 06.10.2018 and direct the Police to register a regular FIR against the land grabber and take action in accordance with law. The Investigating Officer shall make an

application to the Principal District Judge, Chengelpet, to handover the original impugned sale agreement dated 15.05.2011, if available in O.S.No.281 of 2017 and on such application being given, the learned Judge shall handover the original to the Investigating Officer, after taking a photo copy and certifying the same for his file.

With the above direction this petition is ordered accordingly.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

dua/gya

To

1.The Superintendent of Police,
Kancheepuram District,
kancheepuram.

2.The Inspector of Police,
District Crime branch,
Kancheepuram District,
Kancheepuram.

3.The Public Prosecutor,
High Court, Madras.

4.Principal District Judge,
Chengelpet.

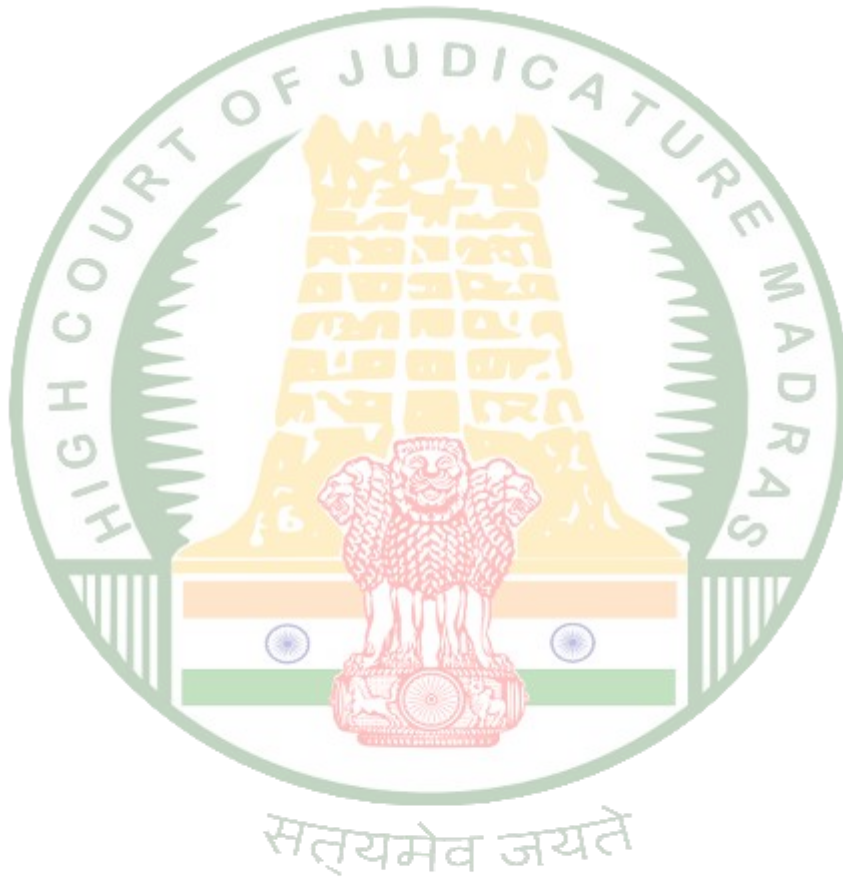
+1 cc to M/s.N.R.Kaushik, Advocate Sr.No.74949

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NRI (CO)
CSL/16.11.2018

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