

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2018

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

WP.No.29574 of 2018
and
WMP.Nos.34536 and 34539 of 2018

Ivan D'Souza,

... Petitioner

Vs.

1.The Deputy Superintendent of Police,
Anti-Grabbing Cell,
Office of Superintendent of Police,
Krishnagiri District.

2.The Inspector of Police,
Anti-Grabbing Cell,
Krishnagiri District.

3.Walter Fernandas
1B, Ghar Apartment,
32, Church Road,
Bangalore-560001.

...Respondents

PRAYER: This Writ petition filed under Article 226 of Constitution of India praying for issue a Writ of Certiorari, to call for the records of the 1st and 2nd respondent culminating in the 2nd respondent issuing the impugned notice calling petitioner for the enquiry based on the complaint given by the 3rd respondent on 08.12.2016 quash the impugned notice.

For Petitioner : Mr.Prakash for
M/s.RRN legal

For Respondents : Mr.C.Raghavan
Government Advocate (Crl.Side)

O R D E R

This petition has been filed challenging the notice issued by the respondent police, calling the petitioner for an enquiry based on the complaint given by the 3rd respondent on 08.12.2016.

2.The learned counsel for the petitioner would submit that the petitioner is aged about 73 years. The petitioner and the 3rd respondent had promoted a company for putting up residential layouts. Certain dispute arose between the parties. The Criminal Complaint came to be given by the 3rd respondent, which after investigation was taken on file in C.C.No.2187 of 2003, as against 16 persons. This case was given in Karnataka. Ultimately, the case ended in acquittal by the judgement of the II Additional Chief Metropolitan Magistrate, Bangalore, dated 25.01.2012.

3.Thereafter, the 3rd respondent filed an appeal in CrI.A.No.270 of 2012 before the High Court of Karnataka. This appeal was withdrawn by the 3rd respondent and the appeal was dismissed on 13.03.2015.

4.For the very same set of allegation, the 3rd respondent has chosen to give another complaint before the respondent police and the respondent police are now calling the petitioner for an enquiry. Aggrieved by the same, the petitioner has approached this Hon'ble Court challenging the notice issued by the second respondent during October 2012 under Section 160 of Cr.P.C.

5.It is seen from the records that the petitioner and others have undergone an elaborate trial before the concerned Metropolitan Magistrate Court at Bangalore, for the very same set of facts and the case has ended in acquittal.

6.Thereafter, the Criminal appeal was also dismissed as withdrawn. With that the case has come to an end. However, the 3rd respondent has now chosen to give a complaint on the very same set of facts before the second respondent and the respondent is now calling the petitioner for an enquiry.

7.The petitioner is at an evening of his life and is aged about 73 years. The petitioner cannot be made to suffer for the very same cause of action in the hands of the second respondent. It is seen that the present complaint given by the 3rd respondent also pertains to the old issue which has come to an end in the year 2012 itself. Therefore, there is no ground for the second respondent to call the petitioner and enquire him, on the basis of the complaint given by the 3rd respondent.

8.In the result, this writ petition is allowed and it is made clear that the second respondent shall not harass the petitioner in the name of enquiry and the second respondent shall not re-open an issue which has already come to an end before the competent Court. There shall be no orders as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

- 1.The Deputy Superintendent of Police,
Anti-Grabbing Cell,
Office of Superintendent of Police,
Krishnagiri District.
- 2.The Inspector of Police,
Anti-Grabbing Cell,
Krishnagiri District.
- 3.The Public Prosecutor,
High Court of Madras,
Chennai.

+1cc to M/s.RRN legal, Advocate sr.no.79685

WP.No.29574 of 2018

spd(co)
nr 10/12/2018

सत्यमेव जयते

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