



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 31.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH
Crl.O.P. (MD)No.4044 of 2016

G.Nakkeeran

: Petitioner

Vs.

1.The Joint Director,
Bank Securities & Fraud Cell,
Central Bureau of Investigation (CBI),
Plot No.5-B, 10th Floor,
B.Wing, CGO Complex,
New Delhi - 110 003.

2.The Superintendent of Police,
Economic Offences Wing (EOW),
Central Bureau of Investigation (CBI),
A Wing - Third Floor,
Rajaji Bhavan, Besant Nagar,
Chennai-600 090.

: Respondents

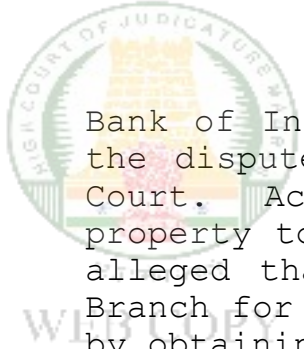
PRAYER: Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code praying to issue a direction, directing the first and second respondents herein to register the case on the complaint of the petitioner dated 05.04.2015 and to investigate and file a final report, within a stipulated time as fixed by this Court.

For Petitioner : Mr.N.Mohan
For Respondents : Mr.N.Ashok Kumar Gowtham,
Senior Public Prosecutor for CBI Cases

ORDER

The petitioner has given a complaint dated 05.04.2015 to the Central Bureau of Investigation and has thereafter, filed the present petition for a direction to the Central Bureau of Investigation to register an FIR.

2. On a reading of the complaint, it is alleged by the petitioner that M/s.Keera Pencils was owned by three partners, namely Gurusamy, Logambal and Jeevarathinam and they were having a property measuring 1 Acre of land and a building measuring 2400 Square Feet. The said Logambal is the grandmother of the petitioner and Jeevarathinam is the aunt of the petitioner. A civil case was filed in 1992 by M/s.Keera Pencils. In that Civil Suit, State Bank of India, Musiri, was made one of the defendants, since the said Bank had extended credit facilities to M/s.Keera Pencils. According to the petitioner, a portion of the land under dispute was sold by the sons of Logambal to one Murali and his mother Andal. The State



Bank of India, Musiri Branch has sanctioned loan to Murali against the disputed property, even though a Civil Suit is pending in the Court. According to the petitioner, Murali sold a portion of the property to one Selvam in the year 2010. The petitioner has further alleged that Selvam applied for loan from Indian Bank, Kulithalai Branch for Rs.4,05,00,000/- [Rupees Four Crores and Five Lakhs only] by obtaining false patta.

3. The Central Bureau of Investigation has filed a counter, wherein, in Paragraph Nos.4 and 5, he has stated as follows:

"4. The respondent submit that, the CBI, Economic Offences Wing, Chennai originally received the complaint and carried out verification of the same to see whether the complaint fell under its purview. During the verification it was found that there was a possibility of public servants being involved and hence the same was sent to CBI/ACB, Chennai, which after a detailed enquiry found that several civil disputes are pending in Civil Court where the documents are lying. The matter pertains to 25 years ago and a Police case is also pending in the same matter with Musiri Police Station and hence it was forwarded to the Vigilance Department of State Bank of India and Indian Bank.

5. The respondent submit that owing to the rising number of Bank fraud cases, RBI had evolved a frame work for fraud risk management. As per the guidelines contained in the circular of the Ministry of Finance, Department of Financial Services No.DBS.Co.CFMS.BC.No.007/23.04.001/2014-15, dt.07.05.2015, it was alid down, *inter alia*, where a complaint is lodged in respect of a bank fraud, it has to be lodged by the bank concerned in accordance with a check list annexed to the Ministry's directions. Hence, CBI cannot take up this case *suo motu* as contained in this complaint. As per the prevailing guidelines of RBI, a complaint had to be preferred by the concerned bank to CBI for investigation of any offence pertaining to bank frauds."

4. In State of West Bengal v. Committee For Protection of Democratic Rights [2010(3) SCC 571], the Supreme Court in Paragraph No.70 has held as follows:

"Before parting with the case, we deem it necessary to emphasise that despite wide powers conferred by Articles 32 and 226 of the Constitution, while passing any order, the Courts must bear in mind certain self-imposed limitations on the exercise of these constitutional powers. The very plenitude of the power under the said articles requires great caution in its exercise. Insofar as the question of issuing a direction to CBI to conduct investigation in a case is concerned, although no inflexible guidelines can be laid down to decide whether or not such power should be exercised but time and again it has been reiterated that such an order is not to be passed as a matter of routine or



merely because a party has levelled some allegations against the local police. This extraordinary power must be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility and instil confidence in investigations or where the incident may have national and international ramifications or where such an order may be necessary for doing complete justice and enforcing the fundamental rights. Otherwise CBI would be flooded with a large number of cases and with limited resources, may find it difficult to properly investigate even serious cases and in the process lose its credibility and purpose with unsatisfactory investigations."

5. In such view of the matter, this Court is of the view that it is not a fit case in which the direction as prayed for by the petitioner can be granted.

6. In the result, this Criminal Original Petition is devoid of merits and accordingly, the same is dismissed.

Sd/-

Assistant Registrar(AD-I)

/True copy/

Sub Assistant Registrar

To

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- 3.The Senior Public Prosecutor for CBI Cases,
Madurai Bench of Madras High Court,
Madurai.

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SML

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