

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.O.P. No.32172 of 2013 and
CrI.M.P.No.1 of 2013

S.Dinesh Kumar

.. Petitioner

Vs.

1.The Superintendent of Police,
District Crime Branch,
Coimbatore District.

2.The Inspector of Police,
District Crime Branch,
Coimbatore District.

3.G.Sivashankar

.. Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records culminating in FIR in Crime No.4 of 2013 dated 26.02.2013 on the file of the 2nd respondent herein and quash the same.

For Petitioner : No Appearance

For R1 and R2 : M/s.S.Thankira

Government Advocate [CrI. Side]

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.4 of 2013 dated 26.02.2013 on the file of the 2nd respondent registered for the alleged offence under Sections 406, 467, 471, 420 and 380 of IPC.

2.The gist of the case is as follows:-

"The case of the prosecution as per the version of the defacto complainant is that the 1st accused -Tr.Palanivel has done business with the 3rd respondent/defacto complainant, Tr.Sivashankar and in respect of the amount of Rs.50 lakhs demanded for

their business from the 2nd accused-Tr.Senthilkumar the defacto complainant and his brother-Tr.G.Prakash have executed two power of attorney dated 01.04.2012 and 04.04.2012 respectively vide Doc.No.391/12/DK4 and 398/12/DK4 respectively. In respect of the family property situated at Chinnakallipatti Village, Mettupalayam Taluk, Coimbatore District for security purpose. The defacto complainant further given the property which stands in the name of his wife Tmt.Thottachi towards the surety for the amount demanded. Further, A2 has executed a sale deed dated 18.10.2012 in favour of the A3 Rajavel as the power agent of the defacto complainant and his brother and also created two receipts acknowledging the receipt of consideration, that is as if the same have been signed by the defacto complainant and his brother G.Prakash are false. Further, the petitioner/accused have signed as witnesses in the receipts and therefore they have also colluded with the other accused as such and committed the offence.

Hence, the defacto complainant preferred a complaint before the Superintendent of Police, Coimbatore District to initiate proper action against the accused."

3.The contention of the learned counsel for the petitioner is that there is no specific overtact against the petitioner. On the face of the record, the petitioner has only signed as witness in the sale deed dated 18.10.2012 and no other criminality has been imputed against this petitioner.

4.The learned Government Advocate [Crl. Side] would submit that the petitioner along with A5 have filed Crl.O.P.No.8297 of 2013, in which a detailed counter has been filed by the respondent by enumerating the petitioner's complicity in the above case. This Court by order dated 13.02.2017 in Crl.O.P.No.8297 of 2013 had dismissed the petition for non-prosecution.

5.The learned Government Advocate would further submit that the complicity of the petitioner would be known after the documents forwarded to the Forensic Science Laboratory and in turn, obtain the Expert opinion to complete the investigation. Then, only it would be able to proceed further investigation. Hence, the investigation in Crime No.4 of 2013 is half-way through and there is no necessity at this stage to quash the FIR.

6.It is seen from the First Information Report that there is a specific allegation as against the petitioner, which has to

be investigated. This Court finds that the FIR discloses prima facie commission of cognizable offence and as such this Court cannot interfere with the investigation.

7. In view of the above, this Court is not inclined to quash the FIR in Crime No.4 of 2013. Accordingly, this Criminal Original Petition stands dismissed. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

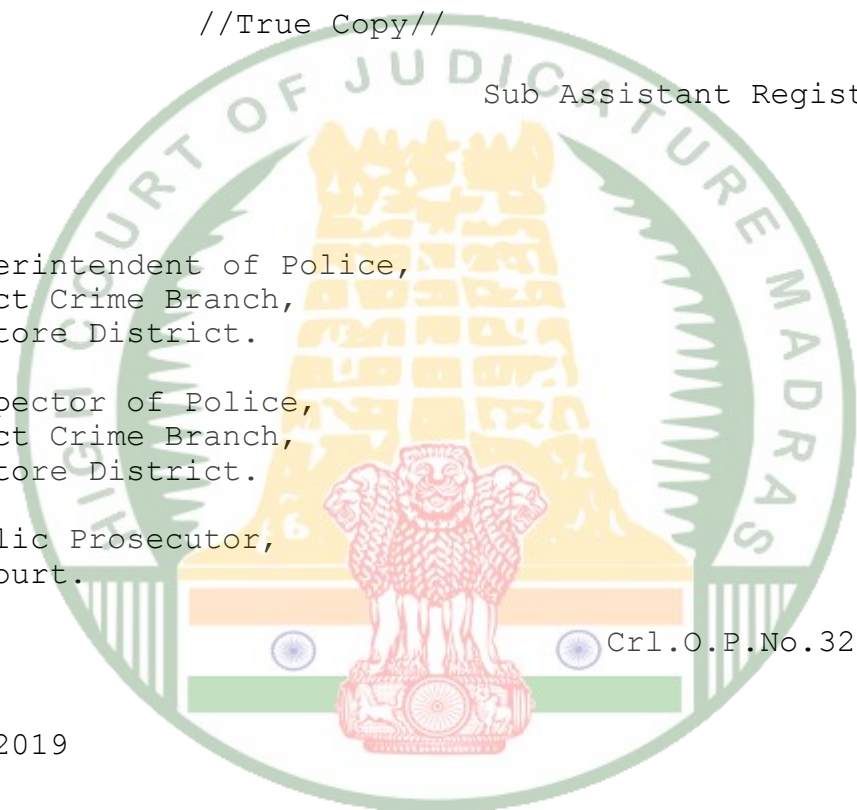
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To

1. The Superintendent of Police,
District Crime Branch,
Coimbatore District.
2. The Inspector of Police,
District Crime Branch,
Coimbatore District.
3. The Public Prosecutor,
High Court.

Crl.O.P.No.32172 of 2013

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nr 20/09/2019

The seal of the Madras High Court is a circular emblem. It features a central yellow temple gopuram (tower) with a red lion capital of Ashoka in front of it. The text "HON'BLE JUSTICES" is written in a semi-circle above the gopuram, and "MADRAS" is written in a semi-circle below it. The words "HIGH COURT OF JUDICATURE" are written in a larger semi-circle at the top. At the bottom, the Sanskrit motto "सत्यमेव जयते" (Satyameva Jayate) is inscribed in Devanagari script.

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