

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2019

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No.1507 of 2019
and
CrI.M.P.No.976 of 2019

R. Sivakumar ...Petitioner/De-facto Complainant

-Vs-

1. The Commissioner of Police,
Greater Chennai,
E.V.K. Sampath Road,
Vepery, Chennai-600 007.
2. The Inspector of Police,
Central Crime Branch - I,
Crime No.122 of 2018,
Chennai - 600 007.
3. The Joint Director,
Central Bureau of Investigation,
Shastri Bhavan,
Chennai - 600 006. ...Respondents/Respondents

Prayer:- Criminal Original Petition filed under section 482 of Criminal Procedure Code, to transfer the investigation in Crime No.122 of 2018 from the second respondent to the third respondent for fair and de nova investigation.

For Petitioner : Mr.N.Manokaran

For Respondents : Mr.M. Mohamed Riyaz
Additional Public Prosecutor
For R1 & R2.

O R D E R

The present petition is filed by the petitioner/defacto complainant to transfer the investigation in Crime No.122 of 2018 from the second respondent police to third respondent/The Joint Director, CBI, for fair and de nova investigation.

2.The learned counsel appearing for the petitioner would submit that the brothers of the petitioner, after the death of their parents, impersonated their mother and executed the settlement deed in favour of their sons. Even then the second respondent police did not investigate the matter for the reasons best known to them. The learned counsel further submitted that, in fact, originally this complaint has been lodged by the petitioner and the same was closed, by a closure report dated 03.11.2017. After filing a direction petition, before this Court in Crl.O.P.No.26974 of 2017, this Court by order dated 25.01.2018 to set aside the closure report filed by the second respondent, and also directed the first respondent/Commissioner of Police is directed to refer the petitioner's complaint to appropriate Investigation Officer for the purpose of investigation. Now, the case has been registered in Crime No.122 of 2018 for the offences under Sections 420, 466, 467, 468, 469 IPC and Sections 81, 82 (a) and 83 of the Registration Act, 1908, as against the accused. Even after registration of FIR, the second respondent police did not take any steps to arrest the accused or take any steps to file final report. Hence, he prayed for transfer of investigation.

3.The learned Additional Public Prosecutor submitted the brief facts of the case is that the complainant Sivakumar alleged that his father Tr.K.Ramachandran owned several properties and the same was executed to his legal heirs namely R.Murugesan, R.Sivakumar, R.Vijayakumar, R.Udayakumar and Jayakumari through release deed. Subsequently, the complainant's brothers viz., Vijayakumar and R.Udayakumar had transferred the properties between them through exchange wherein they mentioned the meagre amount and attained wrongful gain. The properties belongs to his sister Jayakumari had executed in favour of one Rajammal vide Doc.No.991 of 2003 by mentioning meagre market value of the property and also fraudulently mentioned that the said Rajammal is the wife of his father Ramachandran.

4.Further the complainant alleged that the complainant's brother Vijayakumar had fraudulently executed settlement deed in Doc.No.779 of 2004 by falsely mentioning that Rajammal is wife of his father Ramachandran by producing forged ration card. Subsequently, the property to an extent of 4476 sqft., received by Rajammal through above said fraudulent transaction, in turn she had executed settlement deed in favour of the complainant's another brother Udayakumar's sons vide Doc.No.791 of 2004 on 24.06.2004 at SRO, Thousand Light and also mention meagre market value. Hence Vijayakumar and Udayakumar with an intention to cheat the complainant, mentioned very meagre amount as property value in registration documents and also fraudulently mentioned

the complainant's mother name as Rajammal instead of Pattu and thereby attained wrongful gain.

5.Heard Mr.N.Manokaran, learned counsel appearing for the petitioner and Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor appearing for the Government.

6.It is seen from the records that the dispute between the brothers. Though initially his complaint was closed, in CrI.O.P.No.26974 of 2017 by an order dated 25.01.2018, by this Court directed the second respondent to re-investigate the complaint and register the same.

7.Accordingly, the second respondent police registered a case in Crime No.122 of 2018 for the offence under Sections 420, 466, 467, 468, 469, 81, 82(a) 83 of Registration Act, 1908, as against the accused and the investigation is still pending. It is also seen from the status report, they collected case related documents from the Sub Registrar Office, Thousand Light, Chennai, and also proceed with the enquiry with other witnesses.

8.Considering the above facts and circumstances of the case, instead of transfer the investigation from the file of the second respondent, to other Investigation Agency, the 2nd respondent is directed to complete the investigation and file a final report within a period of three months from the date of receipt of a copy of this order. The entire investigation shall be monitored by the Deputy Commissioner of Police, Central Crime Branch, Chennai, till filing final report.

9.Accordingly, the Criminal Original Petition is disposed of. Consequently, connected CrI.M.P.No.976 of 2019 is closed.

msm

Sd/-

सत्यमेव जयते Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1. The Commissioner of Police,
Greater Chennai, E.V.K. Sampath Road,
Vepery, Chennai-600 007.

2. The Inspector of Police,
Central Crime Branch - I,
Crime No.122 of 2018,
Chennai - 600 007.

3. The Joint Director, CBI,
Shastri Bhavan,
Chennai - 600 006.

Copy to: -

The Deputy Commissioner of Police,
Central Crime Branch,
Chennai.

+1cc to Mr.N.Manokaran, Advocate, S.R.No.10439
+1cc to Spl.Public Prosecutor, CBI, High Court, Madras.
+1cc to the Public Prosecutor, High Court, Madras.

CrI.O.P.No.1507 of 2019

GS-II(CO)
Kak(12/03/2019)



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