

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 09.09.2020

DELIVERED ON: 15.09.2020

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

Crl.O.P. No.7036 of 2018

Suneel H. Shah

Petitioner

vs.

The Inspector of Police
Economic Offences Wing II - CID/HQ
SIDCO Old Corporate Office Complex
Thiru.Vi.Ka. Industrial Estate
Guindy
Chennai 600 032

Respondent

Criminal Original Petition filed under Section 482 Cr.P.C. seeking to call for the records in respect of the complaint on the file of the respondent police and set aside the communication of the respondent which was received by the petitioner on 14.02.2018 and consequentially, direct for re-investigation in terms of the provisions of Sections 2 and 5 of the Tamil Nadu Protection of Interests of Depositors (in financial establishments) Act, 1997, based upon the complaint given by the complainant on 03.09.2016.

For petitioner Mr. R. Thirumalai

For respondent Mrs. P. Kritika Kamal
Government Advocate (Crl. Side)

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सत्यमेव जयते
ORDER

The petitioner purchased time shares in Sterling Holidays in the year 1991, under which, he was assured accommodation in the resorts of Sterling Holidays at various hill stations for 99 years. At the time of joining, he paid Rs.10,500/-, for which, Sterling Holidays had given him a receipt dated 21.06.1991. It is the grievance of the petitioner that Sterling Holidays had failed to keep up their promise of providing certain services and adding to his owe, had demanded annual amenity charges from him illegally.

2 On the aforesaid allegation, the petitioner addressed a complaint dated 03.09.2016 to the Inspector of Police, Economic Offences Wing, Chennai, who scrutinized the complaint and addressed a communication to the petitioner, which was received by the petitioner on 14.12.2018, wherein, it was stated that the allegation made by the petitioner in his complaint will attract the provisions of neither the TNPID Act nor the Companies Act, 2013, for them to take criminal action against Sterling Holidays. Impugning the said communication and also for issuance of a direction to the respondent police for re-investigation in terms of the provisions of Sections 2 and 5 of the TNPID Act, this criminal original petition has been preferred.

3 Heard the learned counsel for the petitioner, who took this Court through the agreement that was entered into between him and Sterling Holidays and submitted that the demand of amenity charges is against the terms of the agreement. In support of his contention, the learned counsel took this Court through the communication dated 22.03.1994 that was issued by Sterling Holidays to one Anil Shah, wherein, it is stated that Sterling Holidays will charge only for consumable items.

4 However, the learned Government Advocate (Crl. Side) brought to the notice of this Court clause 13(c) of the agreement that was entered into between the petitioner and Sterling Holidays, which reads as follows:

"The TIME SHARE HOLDER shall pay the requisite charges/fees/prices decided by the COMPANY from time to time for use and enjoyment of the amenities. The TIME SHARE HOLDER shall also be liable to pay such charges/fees/prices as may be fixed from time to time by the COMPANY in respect of electricity, telephone, gas, oil, water, etc. that may be utilised by the TIME SHARE HOLDER while enjoying his TIME SHARE."

5 On a careful consideration of the rival submissions, this Court is of the view that the allegation made by the petitioner will not attract any penal provision for the police to prosecute Sterling Holidays. At the most, the petitioner should have approached the Consumer Disputes Redressal Forum alleging deficiency in service by Sterling Holidays, instead of approaching the police.

In the result, this criminal original petition stands dismissed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

cad

To

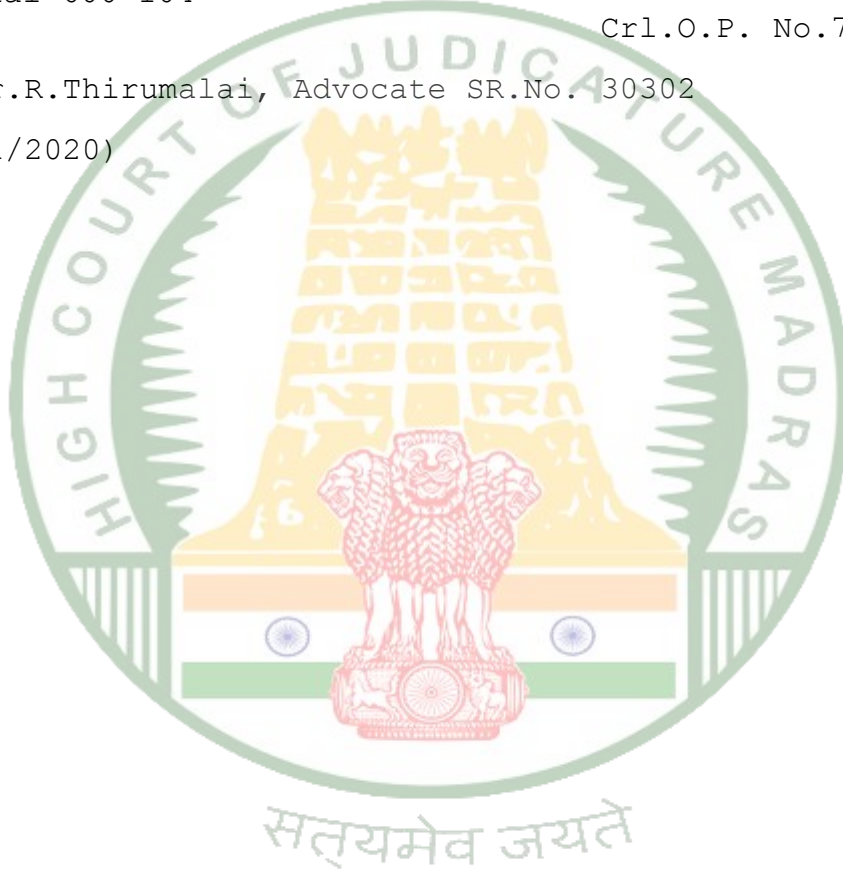
1 The Inspector of Police
Economic Offences Wing II - CID/HQ
SIDCO Old Corporate Office Complex
Thiru.Vi.Ka. Industrial Estate
Guindy, Chennai 600 032

2 The Public Prosecutor
Madras High Court
Chennai 600 104

Crl.O.P. No.7036 of 2018

+1cc to Mr.R.Thirumalai, Advocate SR.No.30302

A.SK(09/11/2020)



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