

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2021

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.16514 of 2018

Sambath Kumar

... Petitioner

Vs.

1.State rep.by
The Commissioner of Police,
Commissioner Officer, Vepery,
Chennai.

2.State rep.by
the Deputy Commissioner of Police,
Mylapore Range,
Mylapore Police Station,
Chennai.

3.State Rep.by
The Inspector of Police (Crime)
E-1, Mylapore Police Station,
Chennai.

... Respondents

Prayer: Petition filed under Section 482 of Cr.P.C., to set aside the enquiry report dated 23.05.2018 submitted by the 2nd respondent and direct him to conduct fair enquiry on the complaint dated 23.12.2017.

For Petitioner : Mr.L.Infant Dinesh

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

ORDER

The petitioner has filed this petition seeking to set aside the enquiry report dated 23.05.2018, submitted by the 2nd respondent and direct him to conduct fair enquiry on the complaint dated 23.12.2017.

2. The case of the petitioner is that the petitioner is running Trust in the name of TVR Subbi Chetty family Charity and Sri Vuppurtur Alwar Chetty Charity Trust. The Subbi Chetty was undertook by the Government and the petitioner is the life trustee of Vuppurtur Alwar Chetty Charity Trust. For the purpose of charity and benefit of the said trust, the petitioner had planned for a Joint venture construction with one Zakir Hussain. However, the said Zakir Hussain had taken undue profit by cheating other investors and trustees for his illegal benefit and further by colluding with the ex-trustees had also initiated civil disputes to capitalize the trust. In a civil dispute, on 21.11.2017, the Division Bench of this Court in Original Side Appeal, had confirmed the life trusteeship of the petitioner in Vuppurtur

Trust as absolute. However, the sister of the petitioner colluding with the said Zakir, had lodged a false complaint as if he swindled the trust property for his own benefits. Taking cognizance of the complaint and on pure non application of mind, the E-1 Mylapore Police has registered a false case and remanded the petitioner to judicial custody on 09.12.2017. While being so, on 14.12.2017, the petitioner while returning to the Magistrate Court after the custodial enquiry, on the way he was transferred to the private car of one Saravana @ cargo Saravanan, who was well known to the said Zahir, wherein he was threatened to sign in a blank papers to transfer the title and possession of the said Trust, failing which he was further threatened that he would be implicated in false cases all over Tamil Nadu and India, as the said person and his boss Zakir, had higher influence of police officials. However, the petitioner has refused to do their needs whereby he was dropped in the Court.

3. Due to which, the petitioner has lodged a complaint against the erring police officials and the said person namely, Saravanan, to E-1 Thuraipakkam Police Station, who refused to take action and closed the

complaint as 'mistake of facts' and therefore, he gave complaint through registered post to the Commissioner of Police, Chennai, then also, no action was taken. Thereafter, left with no other option he was constrained to approach this Court in Crl.O.P.No.728 of 2018, whereby this Court has set aside the Closure Report and directed the Deputy Commissioner of Police, Mylapore, Chennai to conduct further inquiry on the petitioner's complaint and file a final report / charge sheet. Thereby, the said official had conducted investigation and sent a proceeding dated 23.05.2018, to the petitioner, by stating that allegation levelled by the petitioner against the police official who accompanied with the offence, was proved and appropriate disciplinary action was taken against him and further informed that there was no evidence available to take legal action against the persons as stated in the complaint. Aggrieved by the inaction on the part of the 2nd respondent, the petitioner is before this Court to set aside the enquiry report dated 23.05.2018 and to conduct fair enquiry on the complaint of the petitioner.

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4. The learned counsel appearing for the petitioner submitted that since the issues involve disputed question of facts, the petitioner may be permitted to file private complaint under Section 156(3) and 200 Cr.P.C before the competent forum.

5. This Court has carefully considered the materials available on record.

6. Though in the present case on hand, the issues involved disputed question of facts, In the light of the limited prayer sought for by the petitioner and further considering the facts and circumstances of the case, I am inclined to grant liberty to the petitioner to file a private complaint under Section 156(3) or 200 Cr.P.C, before the competent Forum, in accordance with law.

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8. Accordingly, this Criminal Original Petition is disposed of with the

above observation.

19.07.2021

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

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2. The Deputy Commissioner of Police,
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Mylapore Police Station,
Chennai.
3. The Inspector of Police (Crime)
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M.DHANDAPANI,J.
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