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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.13012 of 2021

Jeevanantham

... Petitioner/Defacto Complainant

Versus

1. State rep. by

The Assistant Commissioner of Police,
S.R.M.C. Range,
Chennai - 600 056.

2. State Rep. by,

The Inspector of Police,
Mangadu Police Station,
Chennai - 600 069.

...Respondents

PRAYER: This Criminal Original Petition has been filed under Section 482 of Cr.P.C. to direct the second respondent police to registrar a case based on the complaint dated 23.06.2021 given by the petitioner and investigate the same in accordance with law.

For Petitioner : Mr.Mohammed Riyaz for
Mr.R.Sasikumar

For Respondents : Mr.E. Raj Thilak
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed to direct the second respondent police to registrar a case based on the complaint dated 23.06.2021 given by the petitioner and investigate the same in accordance with law.

2.The petitioner is running a business in the name of Lakshmi Foundation. As a developer who had entered into a joint venture agreement with one V.R.Ramdoss, who is owning a property at No. 5, A.R. Nagar, measuring to an extent of 3,029 Sq.Ft.



Following the same, the petitioner had applied for planning permit, building permit and other permits from the Statutory Authority. Thereafter, he had started his construction. According to the petitioner, he had put up 80% of the construction. On the other hand, V.R.Ramdoss, the land owner had a grievance with the petitioner that the petitioner had not completed the project, within the stipulated period as agreed and the land was purchased by him by way of a loan and he had to make the repayment of the land, which was mounting. Thereafter, the power was canceled and the petitioner again approached the said V.R.Ramdoss and there was an understanding between them. One of the condition was that, at that time, the petitioner had issued 4 cheques, totally valuing to Rs.1,13,00,000/- and thereafter the said cheques also got dishonored, since V.R.Ramdoss had not participated. Using the same, the said land owner entrusted the property to another developer and had sold the property and the sale proceedings had been directly received by the land owner by the Financial institutions, which would not proper. The subsequent joint venture holder had sold the property to the third person.

3. According to the petitioner, he had sold the property to third party and the entire transaction with the subsequent joint venture agreement and also selling the property to others are based on the planning permission, building permission obtained by the petitioner. The reference of the same is being made in the sale agreements, as though, they have obtained the permission which would amount to forgery. Further, the petitioner as a developer has invested huge sum of money, which ought to be repaid. Now a different story has been projected by the land owner, as though, he had taken the loan and purchased the property, which has been mounting and hence he had compelled to cancel the joint venture agreement, which are all got up story to avoid the payment, which is due to the petitioner for the investments he had made in the property. These facts were not enquired by the respondent/ Inspector of Police, Mangadu, with a pre-conceived notion and had conducted enquiry in a haste and the enquiry is attempted to be concluded.

4. The Additional Public Prosecutor submits that in this case, detailed enquiry was conducted. Both the petitioner and the owner of the land appeared and submitted their respective documents, thereafter, enquiry was closed on 30.05.2021. The enquiry report was forwarded to the Assistant Commissioner of Police, S.R.M.C Range, since the current papers were forwarded for approval.



5.The learned counsel for the petitioner submits that since the Inspector of Police, Mangadu had not properly conducted the enquiry. The petitioner may be given an opportunity, so that the Assistant Commissioner of Police can consider the enquiry report as well as the documents, which were considered by the Inspector of Police to conduct an enquiry and to address his grievance in a manner known to law.

6.He further submits that the petitioner had pledged his property with State Bank of India and taken loan for putting up construction in the said property. Moreover, the petitioner had pledged his own property for the said project and he had completed 80% of the project, due to the entanglement created by the land lord, the petitioner was unable to complete the project. Now the petitioner's property is under SARFAESI. The petitioner had lost his property due to the SARFAESI proceedings initiated by the bank.

7.In view of the same, the Assistant Commissioner of Police is directed to consider the enquiry report of the petitioner as well as the land owner and others in this case along with the materials produced by the respective parties give opportunity to parties hear them and thereafter, conclude the enquiry. The above said exercise shall be concluded, within a period of 30 days from the date of receipt of copy of this order.

8.Accordingly, this Criminal Original Petition stands disposed of.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

ah/skr

To

1. The Assistant Commissioner of Police,
S.R.M.C. Range,
Chennai - 600 056.
2. The Inspector of Police,
Mangadu Police Station,
Chennai - 600 069.



3.The Public Prosecutor,
High Court, Madras.

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srg 29/12/2021