



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2021

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P.NO.16434 OF 2020

V.Barani Prasad

...Petitioner

Versus

1. The Additional Director Director of Police,
Commercial Crime Investigation Wing,
Guindy, Chennai-32.
2. The Deputy Superintendent of Police,
Commercial Crime Investigation Wing,
Guindy, Chennai.

...Respondents

This Criminal Original Petition is filed under Section 482 of Criminal Procedure Code praying to direct the second respondent to register a case on the petitioner's complaint dated 09.06.2020, investigate and file final report within the time frame fixed by this Court.

For Petitioner : Mr.N.Manoharan

For Respondents : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

O R D E R

This Writ Petition has been filed for a direction to the second respondent to register a case based on the complaint given by petitioner dated 09.06.2020 who is the President of the Co-operative Society.

2. On an earlier occasion, a status report was submitted by the respondents to the effect that a preliminary enquiry has been directed to be conducted by the Deputy Registrar (Housing) and the police is awaiting the final orders of the concerned authorities.



3. When the matter was taken up for final hearing today, the learned Additional Public Prosecutor circulated the letter of the Deputy Registrar (Housing), Chengalpet, written to the Superintendent of Police, Commercial Crime Investigation Wing, Chennai, dated 10.02.2021. It is seen from this letter that the Deputy Registrar (Housing) has come to a conclusion that there are no prima facie materials and therefore, the entire proceedings have to be dropped.

4. The learned counsel for the petitioner brought to the notice of this Court the order passed by this Court in W.P.No.10635 of 2020, dated 14.08.2020, wherein this Court directed the Deputy Registrar (Housing) to complete the proceedings and pass final orders within a period of eight weeks. The learned counsel submitted that this order was passed on the basis that there was already a finding given during the enquiry conducted under Sections 81 and 82 of the Co-operative Societies Act and what remained was the surcharge proceedings under Section 87 of the Co-operative Societies Act. Under such circumstances, it is not just and proper for the Deputy Registrar (Housing) to now take a stand that there are no materials to proceed against the persons who are said to be involved in the misappropriation.

5. The respondent police cannot register an FIR unless a complaint is given along with a report based on the enquiry conducted under Section 81/82 of the Cooperative Societies Act. Unfortunately, in this case, the Deputy Registrar (Housing) has given in writing to the respondent police that there are no materials to initiate the criminal proceedings against the concerned persons. If the petitioner is aggrieved by this letter submitted by the Deputy Registrar (Housing), the same has to be challenged in the manner known to law. In the absence of the same, there will no basis for the respondent police to register an FIR on the complaint given by the petitioner.

6. In view of the above, liberty is granted to the petitioner to work out their remedy, if they are aggrieved by the letter issued by the Deputy Registrar (Housing), dated 10.02.2021 and proceed further in accordance with law.

7. In the result, this Criminal Original Petition is disposed of accordingly.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

rli



To

1. The Additional Director Director of Police,
Commercial Crime Investigation Wing,
Guindy, Chennai-32.
2. The Deputy Superintendent of Police,
Commercial Crime Investigation Wing,
Guindy, Chennai.
3. The Deputy Registrar (Housing)
Full Additional Charge,
Co-operative Housing Department,
Chengalpattu Region,
Chengalpattu.
4. The Public Prosecutor,
High Court of Madras.

+1cc to Mr.N.Manoharan, Advocate, S.R.No.12918

Crl.O.P.No.16434 of 2020

GPL(CO)
CS/29/03/2021