

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.Nos.19023 & 20013 of 2020
and 914 of 2021

G.M.Ramesh

.. Petitioner
in all Crl.O.Ps.

Vs.

The Inspector of Police,
B-5, Walajabad Police Station
Walajabad, Kancheepuram.

.. Respondent
in all Crl.O.Ps.

Crl.O.P.No.19023 of 2020: Petition filed under Section 482 of the Code of Criminal Procedure, seeking to transfer the investigation of the Cr.No.1745 of 2020 from B-5, Walajabad Police Station to any other police station or agency.

Crl.O.P.No.20013 of 2020: Petition filed under Section 482 of the Code of Criminal Procedure, to direct the Inspector of Police, S-8, Walajabad Police Station, to alter the offence in FIR in Cr.No.1745 of 2020 by including the offence punishable under Sec.406, 465, 468, 471 IPC in Cr.No.1745 of 2020 along with the existing offence of 420 and 34 of IPC.

Crl.O.P.No.914 of 2021: Petition filed under Section 482 of the Code of Criminal Procedure, to direct the Inspector of Police, S-8, Walajabad Police Station, to alter the offence in FIR in Cr.No.1745 of 2020 by including the offence punishable under Sec.406, 465, 468, 471 IPC in Cr.No.1745 of 2020 along with the existing offence of 420 and 34 of IPC.

For Petitioner : Mr.D.Arun Kumar
in all Crl.O.Ps.

For Respondent : Mr.M.Mohamed Riyaz
in all Crl.O.Ps Additional Public Prosecutor.

COMMON ORDER

The issue involved in all these petitions are common and hence they are taken up together, heard and this common order is passed.

2.The brief facts of the case is that the petitioner entered into an agreement of sale dated 03.08.2013 with one Rangan, who claimed to be the owner of the subject property. Pursuant to this agreement, the petitioner had also paid a sum of Rs.9,56,000/-to the said Rangan. The further case of the petitioner is that the said Rangan was evading the execution of the sale deed and the petitioner got suspicious. On verification, the petitioner found that the property originally belonged to the grandmother of the said Rangan and she had already dealt with this property and sold the same through a registered sale deed in Document No.676 of 1994, registered on the file of the Sub-Registrar, Walajabad. Having dealt with the property, she managed to execute a settlement deed for the very same property in favour of the above said Rangan in the year 2007 and the same was registered as Document No.6864 of 2007. This document was claimed to be the title deed of the said Rangan and the petitioner was lured to enter into an agreement of sale and the petitioner has paid a sum of Rs.9,56,000/-. On coming to know of all these facts, the petitioner was demanding for the repayment of the amount, the petitioner was threatened and abused and left with no other option, the petitioner gave a complaint to the respondent Police. An F.I.R. came to be registered in Crime No.1745 of 2020 against the said Rangan for an offence under Section 420 r/w 34 IPC.

3.The petitioner was not satisfied in the manner in which the investigation was taking place and the petitioner found that the parents of the said Rangan were not made as accused and the appropriate offences for forgery was also not included in the F.I.R and therefore, petitions were filed before this Court seeking for the alteration of the F.I.R. The petitioner has also filed a petition for transfer of investigation on the ground that the petitioner has lost confidence in the respondent Police.

4.When the matter was taken up for hearing, this Court directed the respondent Police to file a status report and explain the stage of investigation in this case. A status report was filed by the respondent and the relevant portions in the status report is extracted hereunder:

"4.I submit that I have called Rangan for enquiry u/s.41(A)(3) Cr.P.C and he appeared for enquiry on 30.10.2020 and given a statement as he received only Rs.3,50,000/- from the petitioner and paid thereof on 16.10.2018 Rs.3,00,000/- to the petitioner in the presence of Deputy Superintendent of Police, Kanchipuram Sub Division and given a statment over the same, abruptly suppressed the said receipt of amount in the petition filed before the learned Judicial Magistrate No.II, Kanchipuram in CMP.No.4550/2018. Apart from the Rs.50,000/- left unpaid by the Rangan to the petitioner in the aforesaid sale agreement transaction dated

03.08.2013 though the petitioner had stated as he paid Rs.4,56,000/- to the said Rangan and his father Rajendran in person, there is no proof over the same.

5.I submit that one Tmt.Amutha, mother of the said Rangan herself has filed a petition before the learned Judicial Magistrate No.II, Kanchipuram in C.M.P.No.502/2018 stating as for the unpaid due of Rs.50,000/- the said Rangan claiming Rs.8,00,000/- as exorbitant rate kandhu vatti interest and the petitioner along with his rowdy elements unlawfully trespassed into her house during February 2018 and forcefully taken away the original sale deed documents of their house and threatened them with dire consequences. On the said petition, the learned Judicial Magistrate No.II, Kanchipuram has ordered on 08.02.2019, directing the Inspector of Police, Walajabad Police Station for investigation and report and the said enquiry is still pending.

6.I submit that during the course of investigation in the above case in Cr.No.1745 of 2020, it was found that there is no fraud or cheating committed by the said Rangan and it seems to be only money dealings between the said petitioner and the said Rangan. On 19.11.2020, I had obtained the legal opinion from the concerned Legal Officer attached to the Office of the Superintendent of Police, Kanchipuram and he has opined as there is no criminal offence against the said Rangan and there exist only money dealings between the parties and advised to close the FIR as Civil in Nature. After giving notice to the defecto complainant, I will file the closure report before the Learned Judicial Magistrate No.I, Kanchipuram.

7.I submit that now, the Petitioner/Defacto complainant filed this present petition to direct the Inspector of Police, S-8, Walajabad Police Station, to implead the parents of the accused namely his father M.Rajendiran and mother R.Amuthda as co-accused in Cr.No.1745 of 2020 as prayed by the petitioner. Since, the above case itself is under the process of closing the FIR as Civil in Nature, since, no criminal offence is made out against the said Rangan."

5.Heard Mr.D.Arun Kumar, learned counsel appearing on behalf of the petitioner and Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor, appearing on behalf of the respondent.

6.The allegations made in the complaint given by the petitioner clearly makes out an offence of cheating and forgery against the above said Rangan and his grandmother. The same is borne out by registered documents which shows that

the grandmother of Rangan has already sold the subject property wayback in the year 1994 through a sale deed registered as Document No.676 of 1994. Having sold the property, the grandmother of Rangan did not have any title over the property. In spite of the same, she proceeded to execute a registered settlement deed in favour of Rangan in the year 2007 and the same was registered as Document No.6864 of 2007. Based on this document, the above said Rangan has executed an agreement of sale in favour of the petitioner and has also executed a registered Power of Attorney in favour of the petitioner and he has received a sum of Rs.9,56,000/- from the petitioner.

7.It is quite unfortunate that the respondent Police has now come up with a status report stating that the transaction between the petitioner and Rangan is purely civil in nature and that a closure report is going to be filed before the concerned Court. This status report itself is enough for the Court to transfer the investigation in this case. Obviously, the respondent Police was siding with the accused and without even appreciating the fact that the accused person was dealing with the property over which he had no right, the respondent Police seems to have come to a conclusion that the transaction is civil in nature.

8.In view of the above discussion, this Court has absolutely no hesitation to transfer the investigation in the present case to the file of CCB, Chennai. The respondent is directed to immediately handover the entire case diary to the Deputy Commissioner, CCB, Chennai, within a period of two weeks from the date of receipt of copy of this order. The Deputy Commissioner on receipt of the case diary, shall allot the case to the CCB-III, Chennai. On receipt of the case diary, investigation shall be conducted effectively by the CCB and all the accused persons shall be brought to book and a final report shall be filed as expeditiously as possible.

9.These Criminal Original Petitions are disposed of accordingly.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1.The Deputy Commissioner,
CCB, Chennai.

2. The Inspector of Police,
B-5, Walajabad Police Station,
Walajabad, Kancheepuram.

3. The Inspector of Police,
S-8, Walajabad Police Station,
Walajabad, Kancheepuram.

4.The Public Prosecutor,High Court, Madras.

+2ccs to Mr.D.Arun kumar , Advocate SR.No. 10647

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A.SK(16.03.2021)



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