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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.NO.772 OF 2022

S.Mohan

... Petitioner

Versus

1. The Commissioner of Police,
Greater Chennai,
Vepery,
Chennai - 7.
2. The Inspector of Police,
R-7, K.K.Nagar Police Station,
K.K.Nagar,
Chennai - 83.

... Respondents

PRAYER :

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973 to direct the 2nd respondent to register a case as per the order in Crl.M.P.No.11960 of 2021 dated 26.11.2021 passed by the XXIII Metropolitan Magistrate, Saidapet, Chennai.

For Petitioner : Mr.K.G.Senthilkumar

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

O R D E R

This Criminal Original Petition has been filed to direct the 2nd respondent to register a case as per the order in Crl.M.P.No.11960 of 2021 dated 26.11.2021 passed by the XXIII Metropolitan Magistrate, Saidapet, Chennai.

2. In this case, the petitioner lodged a complaint with 2nd respondent on 05.10.2021 and Mrs.Kasthuri & Mathesan sent online complaint on 04.10.2021. Since no action approached this Court in Crl.O.P.No.19250 of 2021. This Court directed the



petitioner to approach the concerned Magistrate. The petitioner filed a petition under Section 156(3) Cr.P.C before the XXIII Metropolitan Magistrate Court, Saidapet in Crl.M.P.No.11960 of 2021. By Order dated 26.11.2021 directed CCB to register First Information Report and to investigate. The petitioner sent a copy of the complaint to Director General of Police on 11.12.2021, Commissioner of Police grievance cell on 13.12.2021 for registration of First Information Report, no action taken, hence he filed the above petition. It was further reported that normally CCB is reluctant to register First Information Report despite cognizable offence made out due to procedural wrangles, hence registration of First Information Report gets delayed and the perpetrator of crime get sufficient time and opportunity to erase evidence and escape.

3. In view of the same, this Court by Order dated 24.01.2022 had sought the procedure followed in CCB. Today, the report has been filed by the Additional Commissioner of Police, Central Crime Branch wherein the formation of Madras City Police and thereafter the evaluation of the CCB and the procedures followed are stated in the Paragraph Nos.5 to 12 which is extracted below:-

"5) It is submitted that it is pertinent to mention that following the re-organisation of the Madras City Police in 1929, Central Crime Department was formed vide G.O.No.173, Judicial, dated 01.04.1929 and that the department will be under the charge of a Deputy Commissioner, under the Commissioner of Police, assisted by an Assistant Commissioner, who will be in direct charge of the General Investigation Section. It was further notified that Central Crime Department, Madras City Police, Madras as a "Police Station" and that the local area shall be the city of Madras.

6) It is further submitted that, the present hierarchy of CCB, as follows, the Commissioner of Police, Chennai who is the Head of the CCB under whom a full time Additional Commissioner of Police, CCB, under whom, Deputy Commissioners of Police, Additional Deputy Commissioners of Police, Assistant Commissioners of Police, Inspectors of Police and Police team are pressed into service. The different types of crimes being investigated by the CCB, Chennai are as follows;

- i. Entrustment fraud, document fraud (breach of trust)"
- ii. Forgery cases
- iii. Gansters operation and anti-extortion
- iv. Kandhuvaddhi and non-specialised crime and



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- unregistered fraud
- v. Job racketing
- vi. video piracy and copyright act cases
- vii. Bank frauds
- viii. Cyber Crimes
- ix. Land grabbing cases
- x. Fake passport and Fake Visa cases
- xi. Cases allotted by the Commissioner of Police
[Under section 36 of Cr.P.C, 1973]

7) It is submitted that as regards cases of cheating, the Commissioner of Police has passed an office order dated 08.06.2017 of which, paragraph no.2 reads as under:

(2) In the modification of the orders issued in the reference cited, it is ordered that the amount involved in the cases handled by Central Crime Branch is increased from the existing Rs.25 lakhs to Rs.50 lakhs and that the cases in which the amount is less than Rs.50 lakhs are to be investigated by the crime section of the local police under the direct supervision of the Assistant Commissioners of Police, except the special cases or those specifically directed.

8) It is submitted that in respect of CCB, the petitions are received in the office of the COP or Addl.COP, CCB or through mails, CCTNS and crime reporting portals of the Government. All receipts are registered in the office of Addl. Commissioner of Police, CCB being the central registry for CCB. The COP/Addl.COP endorse the petition to the concerned unit officer in CCB to conduct preliminary enquiry on subject jurisdiction.

9) It is submitted that the Enquiry officers put up proposal for registration of FIR, where the information discloses prima facie for a commission of cognizable offence. In such cases where no cognizable offence is made out, but the information requiring to initiate a preliminary enquiry in order to ascertain the nature of such information, a preliminary enquiry is duly conducted in accordance with the dictum laid down in Lalitha Kumari Vs. Government of Uttar Pradesh and others [(2014) 2 SCC 1].



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10) It is further submitted that the report of the enquiry findings is forwarded to the officers who endorsed the petition stating whether cognizance exists or not along with a plan and time frame for such investigation. If preliminary enquiry discloses the prima facie case, the COP/Addl.COP CCB would concur to the proposal of IO, who in turn register an FIR. If there is no such prima facie to take cognizance, the findings will be communicated to the petitioner concerned as per Lalithakumari Judgment by the Enquiry Officer.

11) It is pertinent to mention that in the case of Ramesh Vs Vijaya Kumar and others in CrI.R.C.Nos.271 of 2017 and 541 of 2017, the Hon'ble High Court of Madras viewed as follows;

"...41. This Court is not for a moment saying that control levers should be dismantled, but, only exhorts that they should not become closure valves. In Lalitakumari Vs. Government of Uttar Pradesh and others [(2014) 2 SCC 1], a Constitution Bench of the Supreme Court has permitted preliminary enquiries in commercial offences and has also given a six week time period for that. Therefore, the Central Crime Branch is required to act with alacrity and complete the preliminary enquiry and also obtain clearance from the Commissioner of Police in accordance with their administrative rules within a period of six weeks and take a decision whether to register or not to register the FIR. In the event of deciding not to register the FIR, reasons in regard thereto, should have to be furnished to the complainant so that the complainant can work out his remedies in the manner known to law"

It is further submitted that CCB is strictly complying the above directions of this Hon'ble High Court, in every stage starting from the receipt of the petition to the final disposal as per case.

12) It is further submitted that Central Crime Branch, Chennai while handling the case is following the same procedure as established in similar investigation agency like CBI, CBCID and Vigilance and Anti Corruptions, while dealing with the complaints."



4. As regards the present case, the First Information Report registered by the R7 KK Nagar Police Station for the offence under Sections 147, 148, & 506(i) of IPC on the complaint of the petitioner. Further it is found that a same complaint which has been culminated into First Information Report in Crime No.28 of 2022, a copy has been sent to the CCB. In view of the same, the complaint received by the CCB had been forwarded to the Inspector of Police, R7 KK Nagar Police to be placed in the case diary of Crime No.28 of 2022.

5. In this case, if seen the property originally belonged to one Mr.P.Subramani (died on 07.12.2003), his wife S.Vadivambal (died on 30.05.2015). Since they had no issues, petitioner and 22 others are Class-II legal heirs, Civil Suit in O.S.No.1026 of 2016 filed to declare them as legal heirs. The Civil court by judgment dated 04.03.2017 declared them as legal heirs, the petitioner holds Power of Attorney from all the Class-II, heirs. One Selvam, a domestic help of late P.Subramani and S.Vadivambal, created a forged legal heir certificate, claiming property settled in his favour, the same declared null and void by City Civil Court in O.S.No.7518 of 2015 judgment dated 19.12.2017. In this case investigation with regard to forgery, creation of forged document, using forged cheating involved, added to it, the said P.Selvam, his sons S.Mahesh, S.Dhanush, with support and muscle power of one J.Senthil Kumar, claiming himself as President of Advocates Association of Social Justice (AASJ) with 30 henchmen and Advocates involved in forcible eviction, taking Law into their own hands. These aspects needs sustained elaborate investigation. In the event of Advocates involvement in the offence is found, appropriate steps to be taken and followed with Bar Council of Tamil Nadu, to weed out undesirable elements in the Legal profession, who cause disrespect to the Legal profession.

6. In view of the facts of the case, this Court is of the view that specialized agency like CCB would be the appropriate agency to conduct investigation of such nature, hence Crime No.28 of 2022 pending on the file of the Inspector of Police, R7 KK Nagar Police Station, is hereby transferred to CCB, forthwith, the Additional Commissioner of Police, CCB, on receipt of Case Diary in Crime No.28 of 2022 to nominate a responsible officer to investigate and to take appropriate steps in Law. The investigation to be completed preferably within a period of six months.



7. With the above directions, this Criminal Original Petition is disposed of.

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Sd/-
Assistant Registrar(CS IV)

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Sub Assistant Registrar

dpq/mdl

To

1. The Commissioner of Police,
Greater Chennai,
Vepery,
Chennai - 7.
2. The Inspector of Police,
R-7, K.K.Nagar Police Station,
K.K.Nagar,
Chennai - 83.
3. The Public Prosecutor,
High Court, Madras.

Copy To

- 1 The XXIII Metropolitan Magistrate,
Saidapet, Chennai.
- 2 The Additional Commissioner of Police, CCB,
Chennai, No.132, EVK Sampath Road,
Vepery. Periyamet, Chennai 600 007.

CRL.O.P.No.772 of 2022

PMK(CO)
PM/01/03/2022