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CrI.O.P.No.5497 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2022

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THE HONOURABLE Mr.JUSTICE **G.K.ILANTHIRAIYAN**

CrI.O.P.No.5497 of 2022

Vivekramsisaria

... Petitioner

Vs

1.State Represented by,
The Assistant Commissioner of Police,
Central Crime Branch,
Vepery,
Chennai – 600 007.

2.The Inspector of Police,
Central Crime Branch,
EDF, Team-II, Vepery,
Chennai – 600 007.

... Respondents

PRAYER: Criminal Original Petitions filed under Section 482 of Cr.P.C, to transfer the investigation in Crime No.94 of 2021 pending before the 2nd respondent and transfer the same to the Inspector of Police, CBCID, Chennai, or some other agencies.

For Petitioner : Mr.R.C.Paul Kanagaraj

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



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ORDER

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This petition has been filed to transfer the investigation in Crime No.94 of 2021 pending before the 2nd respondent and transfer the same to the Inspector of Police, CBCID, Chennai, or some other agencies.

2. The petitioner lodged a complaint alleging that he is the Managing Director of M/s.Virgo Polymer (India) Ltd., and it is in the business of distribution of Polymers in the capacity of DCA/CS of HPCL-Mittal Energy Limited. The Company is operating three consignment warehouses, namely in Chennai, Pondicherry and Coibatore. While that being so, the first accused was working in the capacity of Customer Relationship Officer in the Company Agency business of HPCL Mittal Energy Limited. The second accused was co-ordinating with customers in Kerala, Pondicherry and Tamilnadu. Further, he is neither an authorized to collect cash against any sale of materials from the Company nor are the customers allowed to pay cash as per Income Tax Act.



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3. While that being so, during the month of June 2021, few of the company's customers called and enquired about them for not answering their calls. Therefore, the petitioners started enquiry and found that there were dues from few customers since few weeks totaling above Rs.90.00 lakhs to the defacto complainant. Further, they also started physical stock verification of all their warehouses and found that there has been a theft of 108 metric tonnes of stocks from the warehouse of Calcutta Cosmo Packers DCA/CS of OPAL at Madhavaram, Chennai, and it is valued approximately 3.04 Crores, it was looted by the accused persons. The second accused has also taken cash from the petitioner on various occasions to the tune of Rs.75 Lakhs in the personal capacity. Hence the second respondent registered FIR in Crime No.94 of 2021 for the offence under Sections 420, 467, 468, 469, 471, 307, 389 and 506(ii) IPC. On the allegation of siphoning the amount of above Rs.3 crores by booking false bills without proper documents in the name of inter Carting where such services were not availed by the Company.



4. On a perusal of the status report filed by the second respondent it revealed that in so far three witnesses were examined and their statement was recorded and the first accused and his wife were called for enquiry under Section 41(A) Cr.P.C. Thereafter, their accounts were freezed on 15.11.2021 and the second respondent was also called for enquiry and his statement also recorded. The first accused was arrested and remanded to judicial custody and thereafter, he was granted bail. Further, the second accused is absconding and yet to be secured.

5. It is seen that the accused persons swindled huge amount from the defacto complainant and the second respondent lethargically investigated in the matter and without even securing the second accused, even after dismissal of anticipatory bail filed by him. It shows that the accused persons are influenced persons. Therefore, this Court is inclined to transfer the investigation to some other agencies.

6. Accordingly, the investigation in Crime No.94 of 2021 is hereby



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withdrawn from the file of the second respondent and transferred to the file of the Inspector of Police, CBCID, Chennai, for proper investigation.

7. The criminal original petition stands disposed of accordingly.

22.09.2022

Index:Yes/no
Speaking/non speaking order
ata

G.K.ILANTHIRAIYAN, J.

At the instance of the learned counsel for the petitioner, today this matter has been posted under the caption “for being mentioned”.

2. The learned counsel for the petitioner would submit that while disposing of the petition in CrI.OP.No.5497 of 2022 dated 22.09.2022 by this Court, due to inadvertence, the sections for the offence has been altered in the order copy. Hence, he requested to issue a fresh order copy after correcting the same.

3. Heard, the learned counsel for the petitioner.



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4. In view of the submissions of the learned counsel for the petitioner, it is ordered that in the third paragraph of the order passed in Crl.OP.No.5497 of 2022 dated 22.09.2022, the words ***“offence under Sections 420, 467, 468, 469, 471, 307, 389 and 506(ii) IPC”*** shall read as ***“offence under Sections 408, 109 and 34 of IPC”***.

5. Accordingly, the Registry is directed to issue a fresh order copy in Crl.OP.No.5497 of 2022 dated 22.09.2022 after making necessary corrections.

01.11.2022

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To

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1. The Assistant Commissioner of Police,
Central Crime Branch,
Vepery,
Chennai – 600 007.
2. The Inspector of Police,
Central Crime Branch,
EDF, Team-II, Vepery,
Chennai – 600 007.
3. The Public Prosecutor,
Madras High Court,
Chennai.



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G.K.ILANTHIRAIYAN. J,
ata

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