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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.5158 of 2019

N.Vijayakumar ...Petitioner

Vs.

1.The Commissioner of Police,
Coimbatore City,
Coimbatore District.

2.The Assistant Commissioner of Police,
Kattur,
Coimbatore.

3.Mr.Periyasamy
The Inspector of Police,
C3, Saibaba Colony Police Station,
Coimbatore.

4.Mr.Senthil Kumar (IS)
Working in C3 Saibaba Police Station,
Coimbatore. ..Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st and 2nd respondents to take appropriate departmental action against the 3rd and 4th respondents based on the petitioner representation dated 09.2.2019.

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For Petitioner : Mr.M.Dinesh

For R1 & R2 : Mr.S.Rajesh
Government Advocate

For R3 & R4 : No appearance

ORDER

The relief sought for in the present writ petition is for a direction to direct the 1st and 2nd respondents to take appropriate departmental action against the 3rd and 4th respondents based on the petitioner's representation dated 09.02.2019.

2. The petitioner states that he is running a business in the name and style of “Merit Ventures Private Limited”. The company is dealing with real estate business and the respondents 3 and 4 are frequently interfering with the petitioner's business for extraneous considerations. The petitioner states that regarding certain financial transactions, the respondents 3 and 4 are interfering, knowing the fact that it is a civil dispute. Thus, the petitioner sent a complaint to the respondents, who in turn, have not taken any action and therefore, the petitioner has chosen to file the present writ petition.

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3. The 2nd respondent filed a counter affidavit, stating that the petitioner, during the course of real estate business, has involved in cheating of many persons and the Police Department had received many number of complaints. Regarding the said complaints, paragraphs 7 and 8 of the counter affidavit are relevant and reads as under:

> *"7. I submit that on 09.08.2017 one Mr.Senthilkumar (37) S/o.Perumal, D.No.9, Mullai Nagar, Palamalai Road, Perianaickenpalayam has given a complaint against the petitioner Vijayakumar stating that some transactions held between them but Vijayakumar has informed the same to his (Senthil) relatives causing hindrance. During enquiry, he has given explanation in writing and admitted his guilt. Moreover, one Gnanadesigan, S/o.Subramanian, Sivasakthi Nagar, Annanoor, Chennai has lodged a written complaint against Vijayakumar, in which he stated that the above said Vijayakumar has received Rs.10,00,000/- as loan promising that he will give a land/site but has not done so as agreed. Based on the above complaint, a CSR No.28/2019 was issued to the petitioner and served notice to Vijayakumar to appear for enquiry but he has not co-operated so for. Hence, it is crystal clear that the petitioner Vijayakumar's sole intention is only to receive Rs.10 lakhs from the complainant Tr.Gnanadesigan and cheat him.*

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8. I further submit that the above said Vijayakumar has received money from number of persons promising them to arrange government job and allot the land/site, so, all the victims have made complaints with Police, due to fear, the petitioner Vijayakumar has cooked up such complaint with false allegations against Police. The above said Vijayakumar was called only for enquiry purpose based on the complaints and not for grabbing money from him as he stated in his petition and his only intention is to cheat the petitioners by issuing cheques and intimate his bankers for "STOP Payment", this is his usual course/tactics and to escape from the clutches of law, the petitioner has sent such petition against Police with false and baseless averments."

4. The learned Government Advocate appearing on behalf of the respondents 1 and 2 made a submission that even during the pendency of the writ petition, in July 2022, based on a complaint, a Criminal Case was registered against the writ petitioner in Crime No.381 of 2022. When several complaints were received against the writ petitioner regarding the offence of cheating and some cases are registered, this Court is of an opinion that the relief as such sought for cannot be granted.

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5. Action is to be initiated only if excess exercise of power or wrong exercise of power. On receipt of complaint, the Police authorities are bound to initiate action by following the procedures as contemplated under law.

6. In the present case, several complaints were received against the writ petitioner and Criminal Case is also registered. This being the factum, the petitioner has not established any acceptable reason for the purpose of considering the relief.

7. Accordingly, the writ petition stands dismissed. No costs.

30.11.2022

Index : Yes
Speaking order :Yes
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To

1.The Commissioner of Police,
Coimbatore City,
Coimbatore District.

2.The Assistant Commissioner of Police,
Kattur,

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S.M.SUBRAMANIAM, J.

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