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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 10.01.2021

PRONOUNCED ON : 21.02.2022

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.O.P.No.23132 of 2021

D.Chiranjeevulu ... Petitioner/Complainant

Versus

1.The Commissioner of Police,
Commissioner Office Building,
Vepery, Chennai.

2.The Inspector of Police,
T-3, Korattur Police Station,
Chennai - 600 080.

... Respondents/Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order in CrI.M.P.No.2128 of 2021 dated 30.09.2021 passed by the learned Judicial Magistrate at Ambattur and consequently direct the 2nd respondent herein to register the FIR based on the petitioner's complaint dated 28.04.2021.

For Petitioner : Mr.A.Kumaraguru

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

ORDER

This petition is filed to set aside the order in CrI.M.P.No.2128 of 2021 dated 30.09.2021 passed by the learned Judicial Magistrate at Ambattur and consequently direct the 2nd respondent herein to register the FIR based on the petitioner's complaint dated 28.04.2021.

2. The petitioner filed a petition under Section 156 (3) of Cr.P.C., seeking direction to the Inspector of Police, Korattur Police Station, to register the petitioner's complaint. The petitioner made a complaint to the Commissioner of Police on



25.09.2020 which was forwarded to the Inspector of Police and no case was registered. In the meanwhile, the petitioner sent another complaint through registered post to the Inspector of Police on 28.04.2021 and a registered post to the first respondent viz., the Commissioner of Police, Vepery, Chennai, on 05.05.2021. The Lower Court recorded that the complaint pertains to offence of cheating in selling of lands, further observed that the petitioner has not approached the Superintendent of Police level Officer, viz., the Deputy Commissioner of Police, Ambattur in this case under Section 154(3) of Cr.P.C., regarding his two complaints given to the respondent Police. Hence, the petitioner's request for direction under Section 156(3) of Cr.P.C., could not be entertained. Further with delay, the petitioner had approached the Lower Court. Hence, the petitioner to comply with the conditions under Section 154(3) of Cr.P.C., against which the present petition.

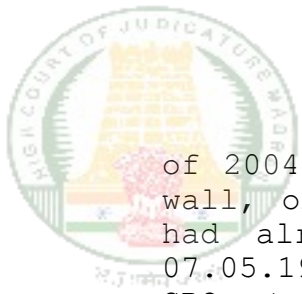
3. The contention of the petitioner is that the Superintendent of Police referred under Section 154(3) of Cr.P.C. is denoting the head of the Police of the concerned District. As regards the Chennai City, head of Police is the Commissioner of Police, Chennai. Within Chennai city limit, cause of action has occurred. The Lower Court referring to the Deputy Commissioner of Police, Ambattur may not be proper. Though the Deputy Commissioner of Police is in the rank of Superintendent of Police, ascribing Deputy Commissioner of Police, Ambattur as Head of the Police, and directing to send representation to him, will not be proper as regards Chennai City is concerned. Presently the position may have changed due to trifurcation of Chennai Police Commissioner and now Commissioner of Police, Avadi designated. In any event, the petitioner is aggrieved by the inaction of Inspector of Police, Korattur Police Station. Hence, the petitioner has sent representation to the higher Authority namely, the Commissioner of Police, Chennai, who is the head of the Police of Chennai City. Hence, he has complied with Section 154(3) of Cr.P.C. The Judicial Magistrate, Ambattur had lost sight of this fact and wrongly directed the petitioner to once again comply Section 154 (3) of Cr.P.C., is not proper.

4. Be that as it may, the gist of the complaint is that the petitioner had purchased a plot in TVS Avenue, Survey No.64 measuring to an extent of 31111 sqft from one Shanthi, her husband and her sons, viz., G.T.Shankar, S.Rajinikanth and her daughter viz., Papitha Devi for a sale consideration of Rs.7,46,640/- on 23.09.2004, Sale Deed Doc.No.3250 of 2004 executed in favour of the petitioner, the same registered at SRO Villivakkam. From the date of purchase of property, the petitioner was in possession and enjoyment of the property. On 18.08.2020, the petitioner visited the property, at that time,



to his shock and surprise, the petitioner found some construction works going on in his land. The petitioner questioned the same, at that time it was informed that the neighbouring plot owner purchased the property and holds valid documents. On 22.08.2020, the petitioner along with his friend viz., Kamalakannan questioned the said Shanthi and her husband viz., G.T.Shankar in Triplicane. The said Shanthi admitted that some mistake happened while executing documents by wrongly referring to Plot No.11. Hence, admitted that mistake to be corrected. In lieu of Plot No.11, Plot No.25 shall be registered, for which, they demanded a sum of Rs.2,00,000/- for the registration charges and other expenses. The petitioner agreed to make payment of Rs.1,00,000/- initially and balance of Rs.75,000/- to be paid later. The said Shanthi promised that she would come and file necessary correction documents. Shanthi and her family members handed over the identity proof and other relevant documents. To gain confidence document of identity proof given, thereafter only petitioner paid the money to the said Shanthi. However, after receipt of money she changed her behaviour and not executed rectification document in favour of the petitioner. Finally on 21.08.2020 the petitioner contacted G.T.Shankar calling for registration, at that time, the said G.T.Shankar abused the petitioner in filthy language, threatened him by saying that he knows many rowdy elements and also he is politically influential person. The petitioner further submits that the petitioner enquired about the property and came to know that in the year 1990 itself Shanthi has executed a Power of Attorney vide Doc.No.401/1990 dated 13.03.1990 in favour of one Arumugasamy for total extent of 50 cents including the petitioner's property. In turn, the said Arumugasamy made plots in the layout TVS Avenue. The petitioner further came to know that the petitioner's property was numbered as Plot No.11, sold through Sale Deed Doc.No.2406/1990 dated 07.05.1990 registered with SRO Anna Nagar. Shanthi and her family members cheated the petitioner and now agreed to rectify and received a sum of Rs.1,75,000/-. When the petitioner insisted for execution of necessary document, he was abused and threatened. Thereafter only petitioner lodged a complaint on 08.09.2020, but no action has been taken. Followed by it, another complaint dated 28.04.2021, the copy of the complaint sent to the Commissioner of Police on 05.05.2021. Thereafter, no action has been taken. Hence, filed the above petition.

5. The learned Additional Public Prosecutor submits that the petitioner has lodged a complaint against one Shanthi and her husband G.T.Shankar and her sons Radhakrishnan, Rajinikanth and her daughter Pavithradevi stating that TVS Avenue Old Plot No.11 and new Plot No.32 sale deed was executed for 3111 sqft, for which, the said Shanthi and her family members received a sum of Rs.7,46,000/- executed a Doc.No.3250



of 2004. When the petitioner had gone to construct the compound wall, one Senthilkumar, resident in Plot No.10 informed that he had already purchased Plot No.11 from one Velu Naicker on 07.05.1990, the same has been registered a Doc.No.2046/1990 in SRO at Anna Nagar. The said Shanthi admitted that instead of Plot No.25 they have wrongly executed sale deed for Plot No.11 and for executing rectification deed to include Plot No.25, she received the expenses amount of Rs.1,75,000/-. The said Shanthi admitted that she is owning the land which in layout in the name of TVS Avenue and admitted that instead of Plot No.25 wrongly executed a sale deed for Plot No.11. The Plot No.11 already purchased by one Senthilkumar from Velu Naicker. Shanthi wrongly executed the Power of Attorney to one Gurumurthy to sell the property in Old Plot No.11 and New Plot No.32 and now realized the mistake, admitted and agreed to rectify the same by executing necessary documents. On receipt of the complaint of the petitioner, CSR.No.955 of 2021 assigned and enquiry conducted. On receipt of the complaint, the petitioner as well as the counter complainant viz., Chiranjeevulur Raji, Arumugasamy, Gurumurthy, Shanthi, Radhakrishnan, Rajinikanth and Pavithradevi were examined. Initially, the statement of these persons viz., Chiranjeevulur Raji, Gurumurthy, Shankar, Shanthi, Radhakrishnan, Rajinikanth, Pavithradevi and Arumugasamy were recorded they confirmed about the executing of documents wrongly showing Plot No.11. During enquiry, one Gurumurthy clearly stated about how the ancestral property of 50 cents devolved on Shanthi from Kathavarayan and Power of Attorney in Doc.No.401/1990 were executed in favour of one Arumugasamy by Kammalammal. Thereafter the said Kammalammal passed away on 06.01.1997, the balance 10 cents lands was let off for road and balance of 3111 sqft in TVS Avenue was given Plot No.11. Along with Power of Attorney the layout was also given. When the sale deed was executed, the said Shanthi produced another layout in the name of TVS Nagar and informed that the name is changed and hence, the Plot number also changed, registered properly, Doc.No.3250 of 2004 in favour of the petitioner. After 17 years, now when the petitioner enquired the said Gurumurthy at that time only it was found that the said Shanthi had created a false document, using the false document created a Power of Attorney. During enquiry the said Shanthi was questioned about Gurumurthy, she informed that the said Gurumurthy not alive, on sustained enquiry Gurumurthy was identified and found who disclosed the fact of fraud played by Shanthi and her family members, getting exposed Shanthi and her family members agreed to execute documents for Plot No.25 which, she still owns. Recording both the parties agreed to resolve the issue, complaint was closed as civil in nature.

6. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the



respondents. On perusal of the closure report, this Court directed the Police to conduct proper enquiry and to report. The report perused disclosed cognizable offence, serious in nature is made out and closing of case as civil in nature is not acceptable. It is the case of creating forged document and using the forged document, Power of Attorney executed sale deed Doc.No.3250 of 2004 and received a sum of Rs.7,46,000/-. Thereafter, when the same was enquired recently, the petitioner was forced to pay a sum of Rs.1,75,000/- for filing rectification deed. The petitioner not only paid a sum of Rs.1,75,000/-. The petitioner hails from Andhra Pradesh. The said Shanthi and her family members coming to know the petitioner has no relatives or friends to support him, started abusing and threatening him. Whether Gurumurthy alone forged document, is the matter to be investigated. The respondent Police ought to have registered the First Information Report and investigated petition in CSR.No.955 of 2021 by conducting a detailed enquiry and recording the statement of complainant and others.

7. It is admitted that the closure report of the CSR not furnished to the petitioner. Further from the second report produced on 08.01.2021 before this Court, it is seen that it is nothing but copy of earlier report produced, except that in earlier report there is no date and in the second report date has been given as 08.01.2021.

8. On perusal of the report it is seen that cognizable offence is made out. In view of the same, First Information Report ought to have been registered and investigated. The reason given by the Inspector of Police, Korattur Police Station is not acceptable.

9. Finding shoddy and in perfunctory manner enquiry conducted and closure report made ready to favour counter complainant, this Court feels that it would be appropriate that the case to be transferred to the file of the District Crime Branch, CCB, (Avadi). The Deputy Commissioner CCB, Avadi, who shall nominate appropriate Inspector of Police, who shall register the First Information Report, seize the documents and take action against the persons who committed forgery and thereby cheated using forged documents in this case. The investigation to be completed within a period of six months from the date of receipt of a copy of this order. The Inspector of Police, T-3, Korattur Police Station, Chennai forthwith to hand over the entire files pertaining to CSR.No.955 of 2021 along with statements and other materials to the Deputy Commissioner CCB, Avadi, who shall take appropriate action in this case.



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10. With the above directions, this Criminal Original Petition is allowed.

Sd/-

Deputy Registrar(CS)

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Sub Assistant Registrar

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To

- 1.The Judicial Magistrate,
Ambattur.
- 2.The Commissioner of Police,
Commissioner Office Building,
Vepery, Chennai.
- 3.The District Crime Branch,
CCB, Avadi.
- 4.The Deputy Commissioner,
CCB, Avadi.
- 5.The Inspector of Police,
T-3, Korattur Police Station,
Chennai - 600 080.
- 6.The Public Prosecutor
High Court, Madras.

+1cc to Mr.A.Kumaraguru, Advocate Sr.No.10997

ORDER IN
Crl.O.P.No.23132 of 2021

RR(CO)
KM(21/02/2022)