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CrI.O.P.No.2685 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CrI.O.P No.2685 of 2023

D.Karthikeyan

...Petitioners

vs.

1.The Inspector of Police,
CCB (EDF Wing) Tambaram City,
Tambaram, Chennai.

2.The Sub-inspector of Police,
S-16, Perumbakkam Police Station,
Chennai.

3.S.Sivakumar

4.K. Vijayalakshmi

5.Manokar @ Manokari

[***R3 to R4 are impleaded as per
the order dated 06.03.2023 in
CrI.M.P.No.3041 of 2023 in
CrI.O.P.No.2685 of 2023]

...Respondents



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PRAYER:

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to transfer the investigation agency by transferring the case in FIR.No.58 of 2022 from the file of the 2nd respondent to the file of the 1st respondent viz CCB (EDF Wing) Tambaram City.

For Petitioners : Mr.S.Jaganathan

For Respondents : Mr.A.Gopinath,
Government Advocate for R1 and R2

ORDER

This criminal original petition has been filed seeking for the transfer of investigation pending on the file of the second respondent in Crime No.58 of 2022 to any other investigation agency.

2. The crux of grievance, that was expressed by the petitioner, has been captured by this Court while passing the order dated 08.02.2023 and the same is extracted hereunder:

“This petition is filed to transfer the investigation in Crime No.58 of 2022 from the file of the 2nd respondent to the 1st respondent herein.

2. Learned counsel for the petitioner submitted that the petitioner purchased the landed properties through sale deeds



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on 24.01.2005 and then on 18.02.2005. He constructed a small building in the land. He was issued patta for this property in patta No.545. The accused Shanmugam had created false and forged settlement deed in favour of his Son Sivakumar and with the aid of several henchmen, destroyed the small building along with trees and other plants. Therefore, the complaint was given. So far respondent police has not conducted effective investigation and no accused was arrested in this case until now.

3. Learned Government Advocate (Crl.Side) prays for time to file status report in this case.

4. In light of the submissions made, this Court directs the petitioner to implead the accused in this case as respondents.

5. Post the matter after three weeks for impleading the accused in this case and also to file a status report by the learned Government Advocate (Crl.side)”

3. When the matter was taken up for hearing today, Mr.G.Ekambaram, Sub-Inspector of Police was present before this Court along with the case diary. This is a case, where the petitioner had purchased a property in the year 2005 through valid sale deeds and the revenue records were also transferred in his name and he had put up the compound wall around the property. It is the specific case of the petitioner that an attempt was made by one M.Shanmugam, wherein he claimed the title of the same property by virtue of the registered sale



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deeds of the year 2007. This was done on the ground that one Vasantha @ Vasanthalakshmi is the legal heir of Perumal Naidu (whose son had sold the property in favour of the petitioner's vendor's vendor in the year 1964 itself) and that M.Shanmugam got the same property conveyed from said Vasantha in the year 2007. Subsequently, said M.Shanmugam had settled his property in favour of his son through the settlement deed, which was executed in the year 2015. Thereafter, the General Power of Attorney was created by appointing one PL.Periasamy as Power Agent and a suit was came to be filed in O.S.No.130 of 2017 to declare the sale deed that was executed in the year 1964, 1967, 1968 and 2005 as null and void. On receipt of notice, the petitioner had also filed an application in I.A.No.151 of 2018 to strike out the plaint. Several proceedings were pending at this stage.

4. While so on 10.03.2021, the above said M.Shanmugam, his son and the Power of Attorney Agent along with a group of Advocates had forcibly entered into the property and razed down the structure by using JCB machine and cut down the trees. The petitioner had given complaint to the second respondent and also to the Commissioner of Police. The FIR came to be registered only on 05.05.2022 in Crime No.58 of 2022.



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5. The petitioner has also stated in the affidavit filed in support of this petition that the complaint has been given against the Advocates, who were involved in this incident, before the Bar Council of Tamilnadu.

6. This Court has carefully gone through the case diary. It is quite unfortunate that in a case of such serious nature, there has been absolutely no progress in the investigation for more than a year. The preliminary report is also available in the case diary to the effect that the accused persons had forcibly entered into the property and demolished the structure by using JCB machine. There were also eye-witnesses, who had spoken about the incident. In spite of the same, no steps have been taken against the accused persons and the accused persons have not even filed any anticipatory bail petition, since they were very confident that the police will not come near them.

7. In a case of this nature, where the accused persons have taken law into their hands, even during the pendency of the suit, the police must act with alacrity and stringent action must be taken immediately. If the same is not done, it will only amount to giving a free hand to the accused persons. This Court is not satisfied with the manner in which the investigation has been conducted by



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the second respondent and in view of the same, this Court is inclined to transfer

the case.

8. In view of the above, the investigation pending on the file of the second respondent in Crime No.58 of 2022 shall stand transferred to the file of Assistant Commissioner, Semmanjeri. The entire case records shall be handed over by the second respondent to the Assistant Commissioner within a period of one week from today (02.08.2023). The investigation conducted by the Assistant Commissioner, Semmanjeri, shall be monitored by the Deputy Commissioner, Tambaram. The investigation officer shall immediately take steps against the accused persons and shall effectively complete the investigation within a period of 4 months and the final report shall be filed before the concerned jurisdiction Court.

9. This criminal original petition is disposed of in the above terms.

02.08.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
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To

- 1.The Inspector of Police,
CCB (EDF Wing) Tambaram City,
Tambaram, Chennai.
- 2.The Sub-inspector of Police,
S-16, Perumbakkam Police Station,
Chennai.
- 3.The Public Prosecutor,
Madras High Court,
Chennai 600 104..



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N. ANAND VENKATESH, J.

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