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Crl.OP.No.16363 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.OP.No.16363 of 2023

and

Crl.MP.No.10410 of 2023

1. T.S.Sathish Kumar
2. A.Rajasekar
3. G.Rajmohan
4. M.Prakash
5. K.Sharanraj

... Petitioners

Vs.

1. The State represented by
The Inspector of Police (Crime),
R-9, Valasaravakkam Police Station,
Chennai-600 087.

2. R.Siva Kumar

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C,1973, to call for records pertaining to Cr.No.03 of 2023 on the file of the Inspector of Police (Crime), R-9, Valasaravakkam Police Station, Chennai-600 087 and to quash the same.



Crl.OP.No.16363 of 2023

For Petitioners : Mr.R.John Sathiyan,
Senior Counsel
for Mr.S.Namasivayam

For Respondents : Mr.K.M.D.Muhilan for R1
Government Advocate (Crl. Side)
: Mr.K.S.Shankar Chakrapani for R2

ORDER

This Criminal Original Petition is filed to quash the the complaint in Cr.No.3 of 2023 on the file of the Inspector of Police, R9 Valasarawakkam Police Station on the ground that the complaint regarding missing vehicle was seized by the bank officials on mistaken identity and sold in auction. After coming to know that the vehicle of the complainant ought not to have been seized, because the complainant has paid the due properly as per the direction of the ombudsman, the complainant was compensated by paying a sum of Rs.94,000/-, despite that the complaint been filed for missing vehicle and later altered into offence under Sections 294(b), 406, 420, 506(ii) r/w 34 of IPC against all the senior officials of the Bank holding them vicariously liable for the act of their subordinates committed innocently due to mistaken identity.



Crl.OP.No.16363 of 2023

2. The learned counsel appearing for the defacto complainant submits that it is not a simple case of mistaken identity or error innocently committed by a lower staff of bank. It is deliberate act of stealing the property of the defacto complainant and selling it directly without intimation to him. The complaint was originally given only for theft of vehicle since the vehicle has parked in front of Angela Studio at about 02.10 p.m found missing, when the defacto complainant has returned back from his work at 06.00p.m. Later, when he has received a traffic challan through SMS from the traffic police, he came to know that the vehicle has been transferred in the name of one Nasser and the said Nasser claims to have purchased the property from one Parthiban who happens to be a regular auction purchaser for the properties sold by bank. When this was brought to the notice of the accused bank, the petitioners herein all joint together and threatened him with dire consequences.

3. Heard the learned Senior Counsel appearing for the petitioner and the learned counsel appearing for the defacto complainant.

4. The learned Government Advocate (Crl.Side) appearing for the respondent police on instructions submits that though the accused



Crl.OP.No.16363 of 2023

persons have pleaded that the vehicle was seized erroneously and after knowing that as per the directions of the ombudsman, the petitioner compensated the defacto complainant by paying Rs.94,000/- and there is also other element of criminality found during the course of investigation and therefore the charge of Section 379 of IPC later altered into Sections 294(b), 406, 506(ii) read with 34 of IPC and the investigation is under way till stay granted by this Court on 19.07.2023. He further submits that if the legal impediment is removed, the investigation will be completed within a period of three months and final report will be filed.

5. Taking note of the fact that the material prima facie indicates that not mere theft of vehicle but something more which needs investigation. Therefore without commenting upon the merits of the quash petition, this Criminal Original Petition is disposed of directing the Investigating Officer to complete the investigation within a period of three months from today and file final report. The petitioners shall be given opportunity to participate in the investigation. Consequently, the connected miscellaneous petition is closed.

01.08.2024

Vv



Crl.OP.No.16363 of 2023

To
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1. The Inspector of Police (Crime),
R-9, Valasaravakkam Police Station,
Chennai-600 087.
2. The Public Prosecutor,
High Court of Madras.



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Crl.OP.No.16363 of 2023

Dr.G.JAYACHANDRAN,J.

Vv

Crl.OP.No.16363 of 2023

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