

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.1.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

CrI.O.P.No.1524 of 2016

Skaria Paul

... Petitioner

Vs

State,  
represented by the Inspector of Police,  
Pollachi Taluk Police Station,  
Coimbatore District

.... Respondent

Criminal Original Petition filed under Section 482 Cr.P.C. to direct the respondent to take action on the petitioner's complaint dated 14.10.2014 acknowledged vide CSR No.188 of 2014 dated 14.10.2014 , register a FIR and investigate the matter in the interest of justice.

For Petitioner : Mr.K.F.Manavalan

For respondents : Mr.C.Emalias,  
Addl.Public Prosecutor.

O R D E R

The petitioner has come forward with this petition seeking for a direction directing the respondent to take action on the petitioner's complaint dated 14.10.2014 acknowledged vide CSR No.188 of 2014 dated 14.10.2014 , register the FIR and investigate the same.

2. In the petition, it is stated that the petitioner is a subscribing shareholder in a company viz Paulson Coffee Curing Works (Private) Limited, which is engaged in the business of coffee curing and related activities. The said company is a family concern promoted by two families viz., the sons of late P.D.Paul, who are petitioner and his five brothers and of late V.H.Subramania Iyer. After the demise of said Subramania Iyer, his two sons viz., S.Mohan and Mr.S.Dinesh succeeded to their father's share and became directors in the company's board of directors. In the course of time, the company has become the owner of valuable assets of movable and immovable properties. The petitioner continued as director of the company till 2005.

While so, the petitioner received a notice from the said company for conducting extra-ordinary general body meeting proposing to increase in the share capital of the company from Rs.40,00,000/- to Rs.80,00,000/-. When the petitioner and his brother personally inspected the company's records on 17.9.2014 and obtained certified copies signed by its whole time director Mr.S.Mohan, the contents of the documents disclosed several illegalities. It was found that from the petitioner and his brother Mr.Antony Paul who are holding shares in the company, 516 shares each were purportedly transferred in favour of one Mr.P.D.Paul, who was not then a member of the company on the date of transfer in his favour of the petitioner's 516 shares being distinctive Nos. 3550 to 35649 (150 shares), 36040-36057 (18 shares), 36594 - 36693 (100 shares), 37373 (80 shares), 37909-37983 (75 shares), 39722-39814 (93 shares).

3. It is further stated in the petition that the petitioner had never transferred his shareholding in the company to any person at any time and he has not received any consideration for the purported transfer. As per Article 23(A) of the Articles of association, no transfer could be made to a person not a member of the company unless none of the other members are willing to purchase and such transfer had to be approved by the Board of Directors of the Company. At the relevant point of time, the petitioner was a director in the company and no resolution for transfer of the petitioner's shares to a non-member was passed or the same could have been passed without notice and approval of the petitioner. Therefore, it was evident that the purported transfer of shares in favour of the said Mr.P.D.Paul on 23.6.1994 was fraudulent and the documents concerning the purported transaction had been forged and falsely fabricated in violation of law. Immediately, the petitioner wrote a letter to the company on 19.9.2014 and registered his protest at the illegal conduct of the company and requested for cancelling of the proposed extraordinary general body meeting. But the company's directors including P.P.Sebastin, his son, Mr.P.D.Paul and S.Mohan proceeded to purportedly pass further resolution on 25.9.2014 for further issue of shares and by such purported issue of additional shares in the company, deprived the petitioner of his entitlement of additional shares in proportion to his corresponding 516 shares that were illegally shown to be purportedly transferred to Mr.P.D.Paul. Hence the petitioner lodged a complaint before the respondent on 14.10.2014, but till date, no action was taken.

4. Learned Additional Public Prosecutor submitted that the value of the shares are more than 40 lakhs and hence the matter should be enquired through a competent authority. He further submitted that if a fresh complaint is given before the District Crime Branch, Coimbatore, appropriate action would be taken.

5. In view of the submissions of the learned Additional Government Pleader, the petitioner is directed to give a fresh complaint along with a copy of this order to the Inspector of District Crime Branch, Coimbatore within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the Inspector of District Crime Branch, Coimbatore is directed to conduct enquiry on the same. Upon enquiry, if materials are gathered indicating commission of any cognizable offence, he is directed to proceed further in accordance with law, as early as possible.

6. The criminal original petition is disposed of accordingly.

msr

-s/d-

Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

To

1. The Inspector of Police,  
Pollachi Taluk Police Station,  
Coimbatore District .
- 2.The Inspector,  
District Crime Branch,  
Coimbatore.
- 3.The Public Prosecutor,  
High Court, Madras.

+ 1 cc to Mr.K.F.Manavalan, Advocate SR 5602

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Cr1.O.P.No.1524 of 2016

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