

FIRST INFORMATION REPORT

முதல் தகவல் அறிக்கை
(Under Section 154 Cr.P.C.)
(கு.ந.வி.தொ.பிரிவு 154 இன் கீழ்)

TAMIL NADU POLICE
INTEGRATED INVESTIGATION FORM-I

C 8097101

- District : *Chennai*
மாவட்டம்
- PS: *VVAE.CC-II*
காவல்நிலையம்
- Year: *2018*
ஆண்டு
- FIR No.: *26018*
மு.த.அ. எண்
- Date: *05/01/2018*
நாள்
- (i) Act சட்டம்: *C.P.C.*
Sections பிரிவுகள்: *102,*
- (ii) Act சட்டம்: *Prevention of Corruption Act, 1988*
Sections பிரிவுகள்: *13(2) r/w 13(1)(c)*
- (iii) Act சட்டம்:
Sections பிரிவுகள்:
- (iv) Other Acts & Sections பிற சட்டங்களும், பிரிவுகளும் :
- (a) Occurrence of Offence Day : *2014*
குற்ற நிகழ்வு நாள்
Date from : *2014*
நாள் முதல்
Date to : *2015*
நாள் வரை
Time Period :
நேர அளவு
Time from :
நேரம் முதல்
Time to :
நேரம் வரை
- (b) Information Received at PS. Date : *09/05/2017*
காவல் நிலையத்திற்கு தகவல் கிடைத்த நாள்
Time :
நேரம்
- (c) General Diary Reference : Entry No(s)
பொது நாட்குறிப்பில் பதிவு விவரம் எண்
Time :
நேரம்
- Type of Information : *Written/ Oral*
தகவலின் வகை : எழுத்து மூலம் / வாய் மொழியாக
Written Complaint
- Place of Occurrence (a) Direction and Distance from PS: *7 km North East*
குற்ற நிகழ்விடம் (அ) காவல்நிலையத்திலிருந்து எவ்வளவு தூரமும், எத்திசையும்
Beat Number :
முறைக் காவல் எண்
(b) Address : *Door No. 231 (old No. 36E & 172)
Anna Salai, Chennai-2.
(R.S. No. 32/19, Block NO. 10, Triplicane Taluk, Chennai)*
முகவரி
- (c) In case outside limit of this Police Station, then the Name of P S :
இக்காவல் நிலைய எல்லைக்கப்பால் நடந்து இருக்குமாயின், அந்நிலையில் அந்த கா.நி.பெயர் மாவட்டம்
- Complainant /Informant (a) Name : *Tr. A. Mahmood*
குற்றமுறையிட்டாளர்/ தகவல் தந்தவர் பெயர்
(b) Father's/ Husband's Name :
தந்தை / கணவர் பெயர்
(c) Date / Year of Birth :
நாள் / பிறந்த ஆண்டு
(d) Nationality : *India*
நாட்டினம்
(e) Passport No. :
வெளிநாட்டு கடவுச்சீட்டு எண்
Date of Issue :
வழங்கப்பட்ட நாள்
Place of Issue :
வழங்கப்பட்ட இடம்
(f) Occupation : *Superintendent of Nagp*
தொழில்
(g) Address : *Office of the Superintendent of Nagp
Tamil Nadu Nagp Board, No. 139, Dr. Bera
Road, Triplicane, Chennai-5*
முகவரி
- Details of Known/Suspected/Unknown accused with full particulars. (Attach separate sheet if necessary)
தெரிந்த / ஐயப்பாட்டிற்குரிய / தெரியாத குற்றஞ்சாட்டப்பட்டவரின் முழுமையான விவரங்கள்
(தேவையெனில் தனித்தாள் இணைக்கவும்)
*Jacob. M. A. Asperg Khaleeb
Family Muthuwalli (Trustee) of M. A. Wamagie Endowment Nagp.*
- Reasons for delay in reporting by the complainant / Informant:
குற்றமுறையிட்டாளரால் / தகவல் கொடுப்பவரால் முறையிட்டதில் தகவல் கொடுப்பதில் தாமதம்

9. Particulars of properties stolen / involved (Attach separate sheet if necessary)

களவாடப்பட்ட / களவிற்குள்ளான சொத்துக்களின் விவரம் (தேவையெனில் தனித் தாளில் இணைக்கவும்)

Misappropriated Rs 25 Lakh. revealed in the manner of encasement
of Nogy property.

10. Total value of properties stolen / involved :

₹ 25,00,000/-

களவாடப்பட்ட / களவிற்குள்ளான சொத்துக்களின் மொத்த மதிப்பு

11. Inquest Report / Un-natural death Case No. if any:

பிண விசாரணை அறிக்கை / இயற்கைக்கு மாறான இறப்பு எண் ஏதேனும் இருந்தால்

12. FIR Contents (Attach separate sheet, if required) :

முதல் தகவல் அறிக்கையின் சுருக்கம். (தேவையெனில் தனித்தாளில் இணைக்கவும்)

Separate sheet enclosed.

13. Action taken : Since the above report reveals commission of offence(s) u/s as mentioned at item No.2 registered the case and took up the investigation / directed N. LAVAKUMAR Rank Dy. S.P. to take up the investigation / Refused Investigation / transferred to PS..... on point of jurisdiction.

எடுக்கப்பட்ட நடவடிக்கை : மேலே குற்ற முறையீட்டில் உள்ளவை பிரிவு 2ல் கூறப்பட்ட சட்ட பிரிவுப்படியான குற்றமாக வழக்கு பதிவு செய்து புலனாய்வுக்கு எடுத்துக்கொள்ளப்பட்டது / பணிக்கப்படுதல் பதவி நிலை பணியாளரின் புலனாய்வுக்கு எடுத்துக்கொள்ள பணிக்கப்பட்டது / மறுக்கப்பட்டு எல்லையைக் கருதி புலனாய்வுக்கு காவல் நிலையத்திற்கு மாற்றப்படுகிறது.

FIR read over to the Complainant / Informant, admitted to be correctly recorded and a copy given to the Complainant / Informant free of cost.

மு.த.அ. குற்றமுறையீட்டாளருக்கு / தகவல் தந்தவருக்கு படித்துக்காட்டி, அது சரியாக எழுதப்பட்டு இருப்பதாக ஏற்றுக் கொள்ளப்பட்டு, அதன் படி நகல் ஒன்று இலவசமாக கொடுக்கப்பட்டது.

14. Signature / Thumb Impression of the Complainant / Informant

குற்றமுறையீட்டாளர் / தகவல் கொடுப்பவரின் ஒப்பம் /

பெருவிரல் இரேகைப் பதிவு

Signature of the Officer in-charge, Police Station
காவல் நிலைய பொறுப்பு அலுவலரின் ஒப்பம்

15. Date & Time of despatch to the court:

நீதிமன்றத்திற்கு அனுப்பப்பட்ட நாளும், நேரமும்

05/01/2018
17:30 Hr

Name: பெயர்

N. LAVAKUMAR

Rank: நிலை

Dy. S.P. No. எண்

V. A. E., CC-II,
Chennai-16.

Cont..... Cr.No.2/AC/2018/CC-II FIR (Column -12)

Today 04.01.2018, the complaint of Tr.A.Mahmood, Superintendent of Waqfs, Tamil Nadu Waqf Board, vide G.S.No.281/MDS/SW/2017 dated 08.05.2017 annexed with the copy of proceedings of the Chief Executive Officer, Tamil Nadu Wakf Board in Rc.No.6345/15/C2/Che dated 2.12.2016 was registered vide DVAC Memorandum DVAC No.3763/2017/WAKF/CC-HQ (SA-9) dated 11-2017 which run as follows:

A.Mahmood, Superintendent of Waqfs, Tamil Nadu Waqf Board. Office of the Superintendent of Waqfs, Tamil Nadu Waqf Board, No.139, Dr.Besant Road, Triplicane, Chennai-5. G.S.No.281/MDS/SW/2017 Dated: 8.5.2017. To, The Director of Vigilance and Anti-Corruption, No.293, M.K.N.Road, Alandur, Chennai-600 016. Sir, Sub: Public Servants – Tamil Nadu Wakf Board – Chennai District – Allegations against Tr.M.A.Azeez Khaleeli, formerly Muthawalli of M.A.Namazie Endowments – Department Enquiry under section 14 of the Prevention and Corruption Act – Reg. Ref: Proceedings of the Chief Executive Officer, Tamil Nadu Wakf Board in Rc.No.6345/15/C2/Che dated 2.12.2016. I wish to submit that a case of misappropriation of funds of M.A.Namazie Endowment Waqf, Chennai by one Janab.M.A.Azeez Khaleeli during a transaction of lease between the endowments and one Thiru.S.Raj Ku,ar. This Endowment is a registered Waqf under the Waqf under the Waqf Act, 1995 bearing G.S.No.281/MDS. I am enclosing herewith the proceedings of the Chief Executive Officer, Tamil Nadu Waqf Board in Proc.No.6345/15/C2/C2/Che dated 2.12.2016, wherein the former Chief Executive Officer had enquired into the complaints of illegal occupation / lease arrangements and had brought on record the fact that a sum of Rs.25 lakhs had been illegally misappropriated by the above mentioned Janab.M.A.Azeez Khaleeli. Further I am to state that section 101(2) of the Waqf Act, 1995 declares every Muthawalli of a waqf, every member of a managing committee of waqf to be a public servant within meaning of section 21 of Indian Penal Code. The said Janab.M.A.Azeez Khaleeli was muthawalli at that time when the transaction is alleged to have taken place. I also submit that he falls under the category of public servant under the definition of section 2 (c) (viii) of the Prevention and Corruption Act 1988. As such, the alleged misappropriation of waqf fund constitutes an offence under section 13 (c) of the Prevention of Corruption Act 1988. Illegal gratification if any obtain from him would also from an offence. I therefore request you to institute an investigation under the Prevention of Corruption Act against the said Janab.M.A.Azeez Khaleeli under section 14 of the Prevention and Corruption Act 1988. Sd xxxx Superintendent of Waqfs, Chennai. Encl: As above. Copy submitted to: The Chief Executive Officer, Tamil Nadu Waqf Board, Chennai-1.

PROCEEDINGS OF THE CHIEF EXECUTIVE OFFICER, TAMIL NADU WAQF BOARD, CHENNAI-600 001. PRESENT: JANAB K.RASHEETH ALI, M.A., B.Ed., M.Phil., Proc.No.6345/15/C2/Ch Dated : 2.12.2016. **Sub:** Waqf Act 1995 as amended by Act 27/2013 – Section 54 – Chennai – Angappa Naicken Street – M.A.Namazie Endowment Waqf – Administration of Waqf and its properties – Action against the Muthawalli – Orders issued – Reg. **Read:**1.Chief Executive Officer, Tamil Nadu Wakf Board notice in Rc.No.6345/10/C2/Chen dated 13.05.2016. 2.Chief Executive Officer, Tamil Nadu Wakf Board enquiry notices in Rc.No.6345/10/C2/Chen dated 09.08.2016, 01.09.2016 & 28.09.2016.

ORDER: M.A.Namazie Endowment Waqf, Chennai is a surveyed and notified one bearing G.S.No.281/MDS. The waqf owns several properties in S.No.321/7, 245, 246, 4373, 1284/5 part and 2936/8 in Chennai District. Out of which, it has been brought to the knowledge that

Thiru.S.Rajkumar, Managing Partner, Sai Balaji Motors, No.1/1, Triplicane High Road, Chennai-5 has encroached one of the property of the above said waqf having land and building at Door No.231 (Old No.36E & 172), Anna Salai, Chennai-2 comprised in R.S.No.321/7 in Block No.10 of Triplicane Taluk, Chennai measuring 6040 sq.ft.

As such, the Chief Executive Officer, Tamil Nadu Waqf Board issued a notice dated 13.05.2016 under section 54(1) of the Waqf Act, 1995 to Thiru.S.Rajkumar, Managing Partner, M/s Sai Balaji Motors vide this office reference 1st cited to show cause as to why an order requiring him to remove the encroachment from the above schedule property within 15 days from the date of receipt of the said notice should not be made with copy marked to Janaba.Rehane Yavar Dhala and Janab.M.A.Azeez Khaleeli said to be the Muthawallis of M.A.Namazie Endowment Waqf, Chennai.

Thiru.S.Rajkumar in his reply to the show cause notice dated 06.07.2016 has stated that the property bearing Door No.231, Old No.361 and 172 Anna Salai Chennai comprised in R.S.No.321/7 in Block No.10, Triplicane Taluk in the ground floor plinth area of 3448 sqft and rear side uncovered passage of 877 sqft and 1st floor with RCC roofing measuring 800 sqft and covered under asbestos measuring 1000 sqft was leased out to him by the M.A.Namazi Endowment Waqf for running a showroom of Hero Motorcycle, during the last week of December and with due permission he is said to have renovated the property incurring huge cost for obtaining dealership. Further he has stated that the Endowment had agreed and made understanding with him to renovate and strengthen the building end adjust the expenses so incurred against the future rent payable to the endowment. Further he has stated that he was not put on notice with regard to title dispute and certain other disputes between the Endowment and Corporation of Chennai and CMWSSB resulting in the Chennai Corporation and CMWSSB initiated distraint proceedings and sealed the premises for non payment of tax and charges, and he had paid Rs.10 lakhs towards property tax and Rs.5 lakhs to CMMSSB for tax and charges and the same is liable to be adjusted against the future rents. During the course of renovation work, some anti-social elements caused obstruction and he made efforts to protect the wakf property from encroachment. While so, the Wakf Board had issued notice dated 13.08.2015 called upon for enquiry, for which he has submitted a detailed explanation on 03.03.2016. The Endowment had also issued a letter dated 27.03.2016 calling upon him to enhance the rents. Therefore he denied to be termed as encroacher / unauthorized occupant in the above wakf property. He further stated that monthly rent payable is Rs.50,000/- and this amount was fixed because he had invested Rs.95 lakhs on the renovation of the building and also an amount of Rs.29 lakhs in moving the necessary authorities for obtaining stay in respect of the sealing notice issued by the Corporation of Chennai. The term of the lease is 10 to 15 years. This is because the capital expenditure of Rs.124 lakhs and the dispute of amount of Rs.25 lakhs taken by muthawalli has to be amortized against the rental payment which can be done during 10 to 15 years period. Further he has stated that he also have to recover the tax paid on behalf of the endowment to corporation and water and sewage Board authorities amounting to Rs.15 lakhs and according to statement issued by Corporation he remit the monthly rental amount of Rs.50,000/- to Corporation of Chennai for tax dues and this has been intimated to the Wakf Board on 22.04.2016 and requested to drop the proceedings initiated under section 54 of the Waqf Act 1995.

On receipt of above reply, a notice dated 09.08.2016 under section 54 of the Waqf Act 1995 was issued to Thiru.S.Rajkumar with copy marked to Janaba.Rehane Yavar Dhala and Janab.M.A.Azeez Khaleeli to appear before the Chief Executive Officer, Tamil Nadu Wakf Board on 31.08.2016 with all the relevant records.

On 31.08.2016, the matter was taken up for enquiry. Janab.M.A.Azeez Khaleeli and his counsel Tmt.Visalakshi appeared and filed vakalath and written argument and served a copy to the other side Janaba.Rehane Yavar Dhala also appeared along with her counsels Janab.Showkath Ali Ahmed and Janaba.Sheik Mehrunissa and filed written submissions. Thiru.S.Rajkumar, Managing Partner, M/s.Sai Balaji Motors also appeared and stated that he had already filed his written submission on 06.07.2016. All the parties were requested to file additional submission if any and documents and the enquiry was adjourned to 20.09.2016.

On 20.09.2016, Janab.M.A.Azeez Khaleeli and his Tmt.Visalakshi and Thiru.S.Rajkumar and his counsel Janab.Nisar appeared. Janab.Nisar Ahmed filed additional documents. Janaba.Rehana Yavar Dhala called absent and her counsel requested time to file written submission. And the case was adjourned to 25.10.2016.

On 25.10.2016, Janaba.Rehana Yavar Dhala, Janab.Mirza Kareem Namazi and their counsel Tmt.Aarthi appeared. Thiru.S.Rajkumar and his counsel Janab.Nisar Ahmed also appeared. Janab.M.A.Azeez Khaleeli called absent and he was represented by his counsel Tmt.Visalakshi. Heard the arguments and orders was reserved on that date.

Janab.M.A.Azeez Khaleeli in his written statement / letter dated 31.08.2016 submitted before the Chief Executive Officer on 31.08.2016 has denied all the averments made by Thiru.S.Rajkumar and stated that Thiru.S.Rajkumar was not a tenant or a lessee and he is an encroacher of the waqf property. No mutual agreement letter dated 27.12.2014 was issued by the endowment to the petitioner to take the waqf property. No emails were exchanged between the petitioner and Mr.Khaleeli. However he had admitted that the endowment asked Mr.Rajkumar to carryout repairs on its behalf and recover the cost from the endowment by setting it off in equated monthly instalments from out of the rent chargeable. Mr.Khaleeli has quoted the email dated 13th May 2015 that

"Under the circumstances we need a mechanism for repayment of only renovation expenses incurred by you on behalf the endowment. It is mutually agreement that the renovation expenses be repaid within 10 years. From out of the monthly rent payable by you, you may deduct a sum of Rs.1,00,000/-, setting it off against the renovation expenses until the liability is discharged by us in full. This will ensure that rent remains on record at Rs.40 or Rs.50 as the case may be."

With regard to the payment of tax to Corporation and CMWSSB, Janab.M.A.Azeez Khaleeli has stated by mail dated 20th May 2015 that

"Coming to the arrears of property taxes, if the lease deed were to be signed only against a clearance from the Revenue authorities, you may have to wait for two or three months. The matter is under discussion with the authorities concerned and will take a month or two to resolve. In any event I have been told that in case of arrears, the corporation has two options both of which affect only the owner of the property. One gives it the power to attach the property and rents. The other contemplates a distraint warrant on the movables in the property and belonging to the owner. The endowment has no movables in the property. And the corporation will not and cannot walk away with the tenant's movables. In case you are put to any hardship in this regard, the endowment will make good the same. A clause to this effect will be incorporated in the lease deed."

Janaba.Rehaha Yavar Dhala in her statement filed before the Chief Executive Officer on 31.08.2016 has stated that Janab.Azeez Khaleeli has legally put in occupation of Thiru.S.Rajkumar in March 2015 of ground floor of the waqf property located at No.231, Anna Salai, Chennai-2 without the sanction of the Board and which is in violation of section 51 of the Waqf Act 1995. Janab.Azeez Khaleeli has interfered with the powers of Board and granted an illegal lease upto 15 years for a shop in violation of section 56 and Rule 19 by receiving a bribe of Rs.25 lakhs and unilaterally agreed to Thiru.S.Raj Kumar to renovate and strengthen the building at an estimated cost of Rs.95 lakhs which would be adjusted against the future rent payable 10 years thereby breach of trust of waqf fund and is dealing fraudulently with the above waqf property warranting his removal under section 64 of the Waqf Act 1995.

The Senior Accounts Officer, Tamil Nadu Wakf Board in his inspection report has pointed out that at present there are three muthawallis functioning in the Waqf without the approval of the Board viz. 1.Janab.Mirza Athul Kirmani Namazi (at present residing at Singapore) 2.Janab.Azeez Khaleeli and 3Janaba.Rehana Yavar Dhala. The Muthawallis Janab.Mirza Athul Kirmani Namazi and Janaba.Rehana Yavar Dhala have given power to Janab.Azeez Khaleeli to manage the affairs of the Waqf and lot of misappropriation in the waqf funds has been made by Janab.Azeez Khaleeli. Further, Janab.Azeez Khaleeli obtained Rs.25 lakhs from Thiru.S.Raj Kumar which has not been accounted in the waqf funds and the other Muthawali Janaba Rehana is well aware of the agreement and transaction made between Janab.Azeez Khaleeli and Thiru.S.Rajkumar. And also suggested to make scrutiny and ascertain factual position and the tenancy should be regularize and proper agreement should be made between the parties.

After careful consideration of all the aspects under this issue and enquiries reveal that it is not free from doubt that Janab.M.A.Azeez Khaleeli has misappropriated the waqf fund and cause heavy loss the wakf and its properties and also attained personal benefits by using the wakf properties. And such grave lapses definitely warrants further investigation.

And whereas in the circumstance of the case, pending enquiry it is necessary in the interest of the waqf to place Janab.M.A.Azeez Khaleeli under suspension from the post of Muthawalli of M.A.Namazie Endowment Waqf, Chennai.

Now therefore under sub section (5) of section 64 Janab.M.A.Azeez Khaleeli is placed under suspension from the post of Muthawalli of M.A.Namazie Endowment Waqf, Chennai with immediate effect.

Since there are no suitable persons available to manage the affairs of the waqf, Janab.Mirza Athul Kirmani Namazi and Janaba.Rehana Yavar are permitted to administer the day-to-day affairs of M.A.Namazie Endowment Waqf, Chennai till a decision is taken by the Board. Further Janab.M.A.Azeez Khaleeli is directed to deposit the amount Rs.25 lakhs obtained from Thiru.S.Rajkumar into the waqf account immediately, failing which criminal complaint will be lodged against Janab.M.A.Azeez Khaleeli for recovery of the said amount.

Considering the fact that a Memorandum of Understanding has made between the Janab.M.A.Azeez Khaleeli, Muthawalli and Mr.S.Rajkumar, Managing Partner, M/s. Sai Balaji Motors relying on such undertaking Thiru.S.Raj Kumar has made huge investment and established the Hero Motors showroom at the wakf premises and paid taxes to Corporation of Chennai and CMWSSB on behalf of the Waqf, which was also well known to the other

Muthawallies also. Thiru.S.Rajkumar has established his position as tenant in the waqf premises. Hence it is concluded that Thiru.S.Rajkumar, Managing Partner, M/s.Sai Balaji Motors cannot be treated as an encroacher of the waqf property. Hence, it is hereby ordered to permit Thiru.S.Rajkumar to continue as a tenant of the Waqf property. Further the above said present administrators are directed to execute 11 months agreement with Thiru.S.Rajkumar, Managing Partner, Sai Balaji Motors for running Hero Motorcycles showroom at the waqf premises subject to other conditions laid down by waqf administration.

Action shall be initiated separately under section 61 and 64 of the Wakf Act, 1995 against the Muthawallis Committee who have been continuously neglects their duties or commits any misfeasance, misfeasance and misappropriation of funds and breach of Trust in relation to Wakf or in respect of any money or Wakf property.

The unlawful action of Janab.Mirza Athul Kirmani Namazi and Janaba.Rehana Yavar Dhala in having given power of attorney to Janab.M.A.Azeez Khaleeli for administration of waqf in contravention to the provision of Waqf Act, 1995 has given room for such misappropriation of waqf fund and breach of trust causing heavy loss to the waqf properties. Their sluggish and negligent act amounts to nothing short of dereliction of duties. Henceforth separate action shall also be initiated against Janab.Mirza Athul Kirmani Namazi and Janaba.Rehana Yavar Dhala under the provisions of the Waqf Act 1995. Sd (K.RASHEETH ALI) Chief Executive Officer, 2.12.2016. To 1.Janab.M.A.Azeez Khaleeli, Plot No.G-E, Cambrae Hall, Dr.P.V.Cherien Crescent Road, Egmore Chennai-600 105. 2.Janaba Rehane Yavar Dhala, Nur Villa, 4/6, Casuarina Drive, Neelangarai, Chennai – 600 041. 3.Janab.Mirza Karim Namazie, 81, Grange Road, Singapore & White Lodge, Mayes Road, Bangalore. 4.Thiru.S.Rajkumar, Managing Partner, Sai Balaji Motors, No.231/172, Mount Road, Chennai-600 002. Copy to: 1.The Supdt. of Wakfs, Chennai-2, 2.The Wakf Inspector, Chennai (North)., 3. B9 – for taking further action.

The above complaint has been registered in V&AC, CC-II, Cr.No.2/AC/2018/CC-II u/s 409 IPC, 13 (2) r/w 13 (1) (c) of PC Act, 1988 on 05.01.2018 at 16.00 hrs. The original FIR along with complaint and its enclosures are submitted before the Hon'ble Special Judge for PC Act, Chennai and copies are forwarded to superior officers concerned.


(N.LAVAKUMAR)

Deputy Superintendent of Police,
Vigilance & Anti-Corruption,
Chennai City – II Detachment,
Alandur, Chennai – 16.