



CrI.O.P.No.31543 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2023

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.O.P.No.31543 of 2022

R.Chakrapani

... Petitioner

Vs.

1.The Commissioner of Police,
The Greater Chennai,
Vepery,
Chennai.

2.The Asst. Commissioner of Police,
Ashok Nagar Division,
Chennai.

3.The Inspector of Police,
Police Station – 3,
Ashok Nagar,
Chennai.

4.The Deputy Superintendent of Police,
Central Bureau of Investigation,
Sastribhavan,
Chennai.

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, directing the 3rd respondent to withdraw the investigation of the case registered in Crime No.177 of 2022 and transfer the same to the 4th respondent herein for the purpose of taking appropriate effective and expeditious investigation of the same.



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For Petitioner : Mr.S.Senthil Kumar
For Respondents : Mr.A.Gokulakrishnan,
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to direct the 3rd respondent to withdraw the investigation in FIR in Crime No.177 of 2022 and transfer the same to the file of 4th respondent herein.

2.The order passed by this Court, on 19.06.2023 is as follows:

“Learned counsel for the petitioner submitted that petitioner's son, namely, Ramachandran, aged about 19 years is studying II year B.Com. in Loyola college, Chennai. On 10.07.2022, the petitioner and his wife questioned their son for not concentrating in his studies and shouted at him. Thereafter, his son left home and not returned till date. Hence, the petitioner lodged a complaint before the third respondent police on 11.07.2022 and a case in Crime No.177 of 2022 was registered for 'man missing'.

2. After registration of F.I.R., no action has been taken by the respondent police. Hence, fearing for his son's illegal detention by somebody and also for his life and



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safety, the petitioner filed Habeas Corpus Petition in H.C.P.No.1635 of 2022 before this Court. This Court, by order dated 29.08.2022 on the submission of the petitioner and also on the submission of the learned Additional Public Prosecutor, directed the Assistant Commissioner of Police, Ashok Nagar Sub-Division, Chennai to supervise the investigation in Crime No.177 of 2022 and keep the petitioner informed about the developments. This order came to be passed on 29.08.2022 and it is almost 10 months from thereon, the petitioner has not received any information from the Assistant Commissioner of Police or Inspector of Police, R-3 Ashok Nagar, Chennai. On the other hand, the petitioner had been regularly appearing before the Police and enquiring about his son's whereabouts. He was earlier informed that during February, 2023, petitioner's son has been in constant chatting with one Ashwin Patel, Bangalore. Thereafter, he made arrangements to find out the said Ashwin Patel and the Ashwain Patel also found missing. The petitioner's son Ramachandran and Ashwin Patel's chatting details and recordings have been collected through private investigation agency, which have been submitted to the Inspector of Police, Ashok Nagar Police Station through pen drive. Thereafter, no action has been taken. Though the petitioner has filed the above petition during December,



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2022, he is yet to know about the stage of investigation.

Today another pendrive is handed over to the respondent police.

3. Learned Additional Public Prosecutor submits that on the complaint of the petitioner and also on the inputs given by the petitioner, the Inspector of Police, Ashok Nagar, Chennai requested the Deputy Commissioner of Police, Mambalam, Chennai to call for the CDR details of two mobile numbers from 01.05.2023 to till date. Learned Additional Public Prosecutor seeks small accommodation to file a status report by the Assistant Commissioner of Police, Ashok Nagar Sub-Division, chennai, whom the Division Bench of this Court had directed to supervise the investigation in Crime No.177 of 2022.

4. Post the matter on 26.06.2023.”

3.This Court, in continuation and in conjunction with the above extracted order, is passing the following order.

4.As per order of this Court, Assistant Commission of Police, Ashok Nagar Sub-Division, Chennai/2nd respondent filed status report, dated 26.06.2023. Relevant portion of the same, is as follows:



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“3.It is further submitted that based on the above complaint, a case was registered in R3 Ashok Nagar police Station, Chennai Crime NO.177 of 2022, "U/s. Man Missing on 11.07.2022 at about 13.30 hours by the then Inspector of police Tr. S. Subramanian Law & order of R3 Ashok Nagar PS and he taken up the case for his personal investigation till his tenure.

4. It is further submitted that, during the course of investigation, the earlier IO has proceeded to the SOC and prepared rough sketch of the SOC and went prepared observation magazhar in presence of witnesses and also examined the following witnesses and recorded their statements:

*1.Tr. Chakrapani - Defacto complainant/ Petitioner
Herein*

2.Tmt Nivethitha -Wife of the defacto complainant

3.Tr. Sathiyamarayanan - Observation witness

4.Tr. Praveen Kumar - Observation witness

All the witnesses were speak about the occurrence of this case.

5. It is further submitted that the IO has circulated pamphlets of the missing person with his full description and circulated the said pamphlets to all police stations in Chennai city through City CRB. More over efforts has been taken by the IO to trace the missing person through social



Willow Road, Menlo Park, CA 94025, United States for any Details about the missing persons chat History.

Missing Person Tr.Ramachandran @ Sreeram URL:

1.<https://www.facebook.com/ramchandran.c.3150>

2.<https://www.facebook.com/sreeram.cr.3>

3.<https://www.facebook.com/shree.ram.73700136>

4.<https://www.facebook.com/sreeram.sreeram.9461>

and the same was replied by law enforcement response team through E.mail dated: 16.12.2022. that our request was reviewed applicable law and their terms of service and a mutual legal assistant treaty request are rogatory is required to seek information pursuant to our request. help.desk (Facebook, Instagram).

and same was followed by the cybercrime team.

10. It is further submitted that during the course of investigation, A special Team formed Tmt.Anupriya, Sub Inspector of police along with Tr.Raj Grl PC 43936, Tr.L.Jeyapraksh PC 58010, and Tr.Muthukrishnan PC 48217.vide C.No.269/JCOP-SZ/Camp/2022 Dated: 09.12.2022 to Assist the I.O regarding to trace the missing person by The said team has visited the following places Chennai, Villupuram and surrounding areas and enquired about the missing Man. But there is no fruitful information about the missing man.



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11. *It is further submitted that the special team visited Palavakkam, Adayar, ECR and surrounding areas and enquired about the missing man. But there is no fruitful clue about missing man.*

12. *It is further submitted that the special team visited Nungambakkam, Marina Beach and surrounding areas and enquired about the missing man. But no clue about the missing man.*

13. *It is further submitted that the special team visited Rameshwaram, Dhanuskodi and surrounding areas and enquired about the missing man as per the request by the petitioner. But no fruitful information about the missing man.*

14. *It is further submitted that, the special team visited various bus stands, various Railway stations and surrounding areas of Ashok Nagar and show the missing man photo and enquired. But no clue about the missing man*

15. *It is further submitted that in the meantime the petitioner/Defacto Complainant filed Habeas Corpus Petition before the Hon'ble High Court in H.C.P.No.1635 of 2022 and the court directed the Assistant Commissioner of Police, Ashok Nagar, Sub Division, Chennai to supervise the investigation in Ashok Nagar Police Station Crime No. 177of 2022 and keep the petitioner informed*



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about the developments, if any. As and when the missing person C. Ramachandran, aged about 19 years is secured, he shall be produce before the XVII Metropolotan Magistrate, Saidapet, Chennai under intimation to the petitioner.

16. It is further submitted that on 29.08.2022, the Deputy Commissioner of Police sent a requisition letter to the Director, National Crime Record Bureau, New Delhi through e-mail for any clue about the missing man but no fruitful information received yet.

17. It is further submitted that on 18.11.2022, the Additional Director General of Police, State Crime Record Bureau sent an information to all the Police Station comes under the state of Tamil Nadu for any clue about the missing man. But no clue was availed.

18. It is further submitted that the former 10 Tr.S.Subramanian was transferred and now The Inspector of police Tr.V.Balan has taken Charge of the Investigation of the above Case from 07.01.2023 and visited the SOC. He enquired the complainant Tr.Chakrapani, Mrs. Nivedhitha and the neighborhoods and so many witnesses and recorded the 161 (3) Crpc Statement and no useful ascertained.

19. It is further submitted and further collected the details of friends' circle of the missing person and



recorded the 161 (3) Crpc Statement and no useful ascertained.

20. It is further submitted collected the Aadhar card copy of the missing person Ramachandran and sent to Cyber Crime T.Nagar district. To find whether linked to any service provider such has Airtel, Vodafone, Jio etc., and also sent requisition for the Mobile Numbers Reg. CDR previous contacts and to find out any other SIM card obtained by using the above Aadhar card but till date nothing is turned up.

21. It is further submitted the as per the latest information availed from the Parents of the Ramachandran the witnesses Tr.Venugopal and Tr.Baskar were enquired regarding the Orange Colour DIO Bike bearing Registration No.TN 05- BT 7353- and recorded the 161 statements. And also as per the request made by the complainant one Tr.K.V.M.Sharma M/A/55 S/O Venugopal Sharma, 186 5th Link Street, Palkalai Nagar, Palavakkam, Chennai-41 was called over Phone to appear for enquiry for which he has replied that he was already enquired by former Inspector of Police Tr.S.Subramanian, regarding the Pen Drive and accepted to appear before 26.06.2023.

22. It is further submitted the for the requestion letter dated 03.01.2023 reply was obtained from Government Mental Health Centre, Kilpauk, Chennai-10



stating that no such person was admitted in the Hospital and also visited the Rehoboth Education Trust, CDH Shelter for mentally ill orphan, Tondiarpet, Chennai-81 but no such person was found there.

23. It is further submitted the requisition regarding the un identified dead bodies match with the identity of the age group 19 to 21 years old through CCTNS but reported that nothing is matching so far.

24. It is further submitted the special team visited the Madras Airport, Central and Egmore Railway Station and Various Bus Stand's in and around Chennai city with regarding to the above matters.

25. It is further submitted that all the information's obtained have been informed the parents of the missing person Tr.Ramachandran as and when regarding the efforts taken by the I.O. It is submitted that I am continuously monitoring the case and all sincere efforts are being taken by us to secure the missing boy. The online activity is also being monitored continuously. The missing boy has neither contacted his college mates nor his parents and near and dear ones. As the mobile phone used by the missing boy is kept in the home itself, the movements based on the mobile phone could not be traced.

26. It is further submitted that the respondent police received complaint and registered a case and investigated



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the same in a free, fair and impartial manner. The respondent police is taking sincere and effective steps to secure the missing man. Now, this case is under investigation for securing the missing man and try to trace the missing man. At this stage, there no necessity to transfer of this case as as prayed by the petitioner/defacto complainant.”

5.Learned Additional Public Prosecutor further produced a letter, dated 16.12.2022 from Case Diary in Crime No.177 of 2022 showing that through Deputy Commissioner of Police, Thiyagaraya Nagar, Chennai, requisition has been made to the social media, namely, Facebook seeking information for the purpose of investigation. Facebook replied that as per the mutual legal assistant treaty request are rogatory, which is required to seek information pursuant to the request. Due to this reply, investigation cannot be further proceeded. He further submitted that pendrive submitted by learned counsel for the petitioner on the last hearing, was verified, which is available with the 2nd respondent. The Police called the person mentioned in pendrive, who appeared and informed that for the purpose of money, such call was made by him. Since information from Facebook and other social media



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is unable to be obtained, the investigation could not be progressed further.

6.On considering the submissions and on perusal of the materials, it is seen that investigation is proceedings in the right direction, but for non-cooperation of Facebook, Instagram and other social media to provide details, investigation could not be progressed and missing person could not be identified and secured.

7.Admitted case of the petitioner is that petitioner's son, a Loyola College Student, voluntarily left home on his own leaving behind all his electronic gadgets. Due to which, his whereabouts is not known. He further submitted that there is no question of any illegal or forcible detention by anyone. Now, Police are taking efforts to secure the petitioner's son.

8.There have been several instances of investigation invoking Section 91 Cr.P.C., sending summons to social media/search engines to produce document/particulars in their possession or power which are



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necessary for the purpose of investigation and inquiry. This procedure is accepted and documents and particulars are produced. It is not necessary to attend personally, furnish of documents by email will be sufficient. In the case of “***Mohammed Sakeel Versus State of Haryana*** reported in ***2018 SCC OnLine P&H 1771***” records such procedure in vogue. The relevant paragraph (Paragraph No.4) is extracted hereunder:

“4. On the last date of hearing, an affidavit of Shri Virender Singh, H.P.S, P.S. Tauru, District Nuh had been filed which indicates that during the course of investigation, the police had collected evidence to connect the petitioner with the alleged facebook accounts. The relevant extracts from para no. 2 of the said affidavit reads as follows:—

“That it is also pertinent to mention here that during the course of investigation, all the I.Ds were supplied to cyber cell to locate the names and address of the user of the I.Ds used in commission of crime. The nodal officer of Facebook was issued a notice u/s 91 of Cr.P.C. and he supplied the report to the police and after examination of the same, it was revealed that the accused was using mobiles No. 8433142007, which was reported to be issued on the CAF I.D. of Radha Kumari d/o Balak Ram, second mobile No. 9812555039 CAF I.D. of Herbhajan s/o Sunder Das and third Mobile No. 9896700512 CAF I.D, which was reported to be allotted on the CAF I.D. of petitioner. The aforesaid act and conduct was illegal and against the settled



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preposition of law. The petitioner procured two mobiles on fake I.Ds. The CAF I.D. of facebook was also obtained from the Nodal Officer, which was of the petitioner, who has uploaded and viral the photos on his fake facebook ID's with vulgar and objectionable text and recorded obscene comments on the photos, which has defamed the victim and has brought insult to her and her family members. It was also revealed during the course of investigation that the photos of sister of the complainant namely Sanowar were uploaded from mobile no. 9992166564 which is issued on the CAF I.D. of the petitioner. ””

9.This Court is of the view that it would be appropriate to follow such procedure in the present situation.

10.In view of the above, the 3rd respondent Police can summon documents/particulars of the petitioner's son from Facebook, Instagram and other social media invoking Section 91 Cr.P.C through email. After getting such information, 3rd respondent Police can proceed with investigation further in accordance with law.



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11. With the above observations, this Criminal Original Petition is disposed of.

26.06.2023

Index: Yes/No
Internet: Yes/No
Neutral Citation: Yes/No
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To

1. The Commissioner of Police,
The Greater Chennai,
Vepery,
Chennai.
2. The Asst. Commissioner of Police,
Ashok Nagar Division,
Chennai.
3. The Inspector of Police,
Police Station – 3,
Ashok Nagar,
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4. The Deputy Superintendent of Police,
Central Bureau of Investigation,
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5. The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.
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