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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 19/06/2023

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The Hon'ble Mr.Justice **G.ILANGO VAN**

WP (MD) No. 9716 of 2023

P.Mathi @ Mathialagan : Petitioner

Vs.

- 1.The Director,
National Commission for Scheduled Caste, (NCSC),
2nd Floor, Block-5,
Shastri Bhawan,
Chennai-600 006.
- 2.The Director General of Police,
DGP Office,
Mylapore,
Chennai.
- 3.The Additional Director General of Police,
24, Pantheon Road,
Komaleeswaranpet,
Egmore, Chennai-600 008.
- 4.The Commissioner of Police,
Madurai City, Madurai.
- 5.The Deputy Commissioner of Police,
Office of the Commissioner of Police,
Tallakulam, Madurai.
- 6.The Assistant Commissioner of Police,
Tallakulam Range,
Tallakulam,
Madurai.



7. The Inspector of Police,
Tallakulam Police Station,
Madurai City.

8. The Inspector of Police,
CBCID,
Madurai,
Madurai District.

: Respondents

PRAYER:-Writ Petition is filed under Article 226 of the Constitution of India, in the nature of Writ of Mandamus, to direct the 2nd respondent to transfer the investigation to the 8th respondent, by considering the petitioner's representation, dated 20/02/2023 and pass such further or other orders.

For Petitioner : Mr.K.Sivabalan

For Respondents : Mr.B.Nambiselvan
Additional Public Prosecutor

O R D E R

This writ petition has been filed seeking direction to the 2nd respondent to transfer the investigation to the 8th respondent, by considering the petitioner's representation, dated 20/02/2023.

2. The facts in brief:-

The petitioner belongs to Hindu Kuravar community



and his work is pig rearing and basket making. During British period, their community people were branded as 'Criminal Tribes.' The Criminal Tribes Act, 1871 was enacted. Even after the independence, stigma continues. On the basis of stigma the police people used to implicate the community people, wherein and whenever robbery or theft occurred. In such a way, this petitioner was roped in more than six criminal cases. In those cases, he was taken to custody illegally. On one occasion, they made a representation to the Government for redressing their grievance. A Committee was appointed, made enquiry and recommended. On the basis of the recommendation, many of the cases, which were registered against the petitioner, either withdrawn or dropped. One of the case is CC No.267 of 2023 before the Judicial Magistrate No.1, Thanjavur. He was arrested. On the basis of the confession statement of the co-accused, in Crime No.340 of 2015, he was detained illegally, ill-treated and compelled to admit the offence. He was also seriously attacked, that was recorded by the Remand Magistrate in the order itself. After 120 days custody, he was released on bail. On coming out of bail, he made enquiry with regard to the case with one Ramesh, who



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stated to be the accused. On his confession statement, implicating this petitioner. In spite of finding the real fact, the police police are foisting the cases upon the innocent persons like the petitioner. In a murder case, he has been roped in. He sent a representation, on 20/02/2023. But there is no action. So, he filed this petition seeking transfer of the investigation as stated above.

3. Heard both sides.

4. The entire CD file has been called for and perused. A1 was arrested and on the basis of the confession statement of A1, the involvement of the petitioner also came to light. Other two accused namely P. Anandhan and Kuppan are absconding.

5. It is a case of robbery with murder. CCTV footage available in the place occurrence shows that two persons climbed staircase and committed the above said gruesome murder coupled with robbery.



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6.The manner, in which the above said offence said to have been committed display the brutal nature of the offender. It is seen that two persons, as stated above, entered into the house and another person was standing outside watching the movement of others.

7.Whether the confession statement of the co-accused is sufficient enough to convict this petitioner is a matter for consideration by the trial court. The identification of the accused, in the CCTV footage, can be carried only at the time of trial. Simply because the petitioner has sent a representation stating that he belongs to a Backward Social Tribe Community and because of the stigma, that was adopted during pre-independence, he has been implicated cannot be a ground for transfer the investigation.

8.Perusal of the CD file shows that the investigation has been undertaken in a proper and fair manner. Absolutely, there is no bias in the mind of the Investigating Officer. Out of 9 sovereigns of gold jewels, only 5 sovereigns of gold jewels were recovered and 4 sovereigns were not recovered. On that account,



the final report could not be filed by the prosecution before the committal court, because of the objection made by the Additional Public Prosecutor. So, I find absolutely no reason to transfer the investigation now, since already it is completed.

9. Whether this petitioner has been falsely implicated in this case or not cannot be a matter for consideration or point for transferring the investigation.

10. I find absolutely no reason to entertain this petition and this petition will amount to abuse of process of court and law. So without going into the other aspects as detailed in the grounds, this criminal original petition stands **dismissed**. No costs.

19/06/2023

Index: Yes/No
Internet: Yes/No

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