

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.OP No.10894 of 2015

&

M.P.No.1 of 2015

Kalaiselvi

...Petitioner

Vs

1. The Superintendent of Police
Kanchipuram District
Kanchipuram Taluk and District
2. The Inspector of Police,
Wallajabad Police Station
Wallajabad
Kanchipuram Taluk and District
3. The Sub Inspector of Police
Wallajabad Police Station
Wallajabad
Kanchipuram Taluk and District

...Respondents

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to order further investigation in Cr.NO.17 of 2013 on the file of the B-5 Walajabad Police Station by the 1st respondent and file report before the Honble Judicial Magistrate No.II, Kanchipuram District.

For Petitioner

:

Mr.T.Sathiyamoorthy

For Respondents

:

Mr.C.Emalias,

Additional Public Prosecutor

ORDER

The petitioner has come up with this petition to direct further investigation in Cr.NO.17 of 2013 on the file of the B-5 Walajabad Police Station by the 1st respondent and file report before the learned Judicial Magistrate No.II, Kanchipuram

District.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondent police.

3. On a complaint lodged by the petitioner, a case in Crime No.17 of 2013 was registered against 11 persons on 22.3.2013 for the offences punishable under sections 147, 148, 506(ii) and Sections 2 and 3 of TNPPDL Act. It appears that the police completed the investigation and filed a final report only against 5 persons, leaving out 6 persons and also dropping penal provisions of TNPPDL Act.

4. It is the consistent case of the petitioner that the accused damaged the Motor Cycle of the petitioner and thereby they committed the offence under the provisions of TNPPDL Act. The Motor Cycle was seized by the police and was kept in the police station.

5. The police were taking a stand that the Motor Cycle was never seized by them and this prompted the petitioner to take photograph of the Motor Cycle lying in the Police Station and file an application before the learned Judicial Magistrate No.II, Kanchipuram for a search warrant to search the police station. The learned Judicial Magistrate No.II, Kanchipuram by order dated 11.4.2014 in CMP No.2423 of 2014 in Crime No.17 of 2013 allowed the application and appointed one Mr.M.Srinivasan to search Walajabad Police Station and to find out whether the two wheeler bearing Registration No.TN 21 AM 7659 was available. This is indeed a proactive step taken by the learned Magistrate in the interest of justice and this Court lauds her act and records the appreciation for the active participation in the adjudicatory process for the purpose of rendering justice.

6. Under such circumstances, a further investigation as prayed for by the petitioner cannot be ordered by this Court and instead, the petitioner is given liberty to file a protest petition before the learned Judicial Magistrate No.2, Kanchipuram protesting against the dropping of the names of six persons in the final report and also for dropping the penal provisions of TNPPDL Act especially in the teeth of the fact that Motor Cycle was found in the police station pursuant to the search done by the advocate appointed by the court. On such protest petition being filed, the same shall be dealt with by the trial court in the light of the law laid by the Supreme Court in Vinay Tyagi vs. Irshad Ali @ Deepak and others reported in 2013 (5) SCC 762. If the learned Judicial Magistrate No.II, Kanchipuram is of the opinion that it is a fit case to order further investigation, the same may be ordered under

the supervision of Deputy Superintendent of Police, Kanchipuram District.

7. This Criminal Original Petition is disposed of with the above direction. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

ajr

To

1. The Judicial Magistrate No.2,
Kanchipuram
2. The Superintendent of Police
Kanchipuram Taluk and District
3. The Inspector of Police,
Wallajabad Police Station
Wallajabad
Kanchipuram Taluk and District
4. The Sub Inspector of Police
Wallajabad Police Station
Wallajabad
Kanchipuram Taluk and District
5. Deputy Superintendent of Police,
Kanchipuram District.
6. The Public Prosecutor,
High Court, Madras.

1 CC to Mr.T.Sathiyamoorthy, Advocate SR.No. 23851

Cr1.OP No.10894 of 2015

PUR (CO)
PSI (18.05.2015)