

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.07.2015

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THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.OP.No.13606 of 2015

R.Marappan

... Petitioner

Vs

1.The Superintendent of Police,
Anti Land Grab Special Cell,
Namakkal District.

2.State rep. by
The Inspector of Police,
District Crime Branch,
Namakkal District.

... Respondents

Criminal Original Petition filed under Section 482 of Cr.P.C., praying to transfer the investigation in Cr.No.9 of 2011 to CBCID or any other effective investigating agency in Salem District for effective investigation in the case and the file final report, within a reasonable period.

For Petitioner : Mr.A.Thiyagarajan

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

O R D E R

This petition has been filed to transfer the investigation in Cr.No.9 of 2011 to CBCID or any other effective investigating agency in Salem District for effective investigation in the case and the file final report, within a reasonable period.

2. Heard the learned counsel for the petitioner; learned Additional Public Prosecutor appearing for the respondents and perused the materials placed on record.

3. On 19.06.2015, this Court passed the following order:

"This Criminal Original Petition has been filed to transfer the investigation pertaining to the case in Crime No.9 of 2011, from the file of file of the second

respondent/Police to the file of CBCID, on the ground that the Police have not done any investigation for the last four years.

2. The learned counsel appearing for the petitioner has brought to the notice of this Court that, earlier, the petitioner approached this Court by way of filing a Petition under Section 482 Cr.P.C., viz., CrI.O.P.No.16557 of 2012, seeking for direction upon the Police to investigate the case with regard to the aforesaid crime number and to file final report. This Court, by order, dated 26.07.2012, disposed of the said Petition, and for better appreciation, the relevant portions of the order is extracted hereunder:-

"2.It is submitted by the learned Additional Public Prosecutor that the investigation has almost been over and final report would be filed within a period of two months from today. The said statement is recorded.

3.In view of the above, the second respondent is directed to file final report in this case within a period of two months from the date of receipt of a copy of this order."

3. The learned counsel appearing for the petitioner submitted that since the order, dated 26.07.2012, as quoted supra, was not complied with by the respondent/Police, the petitioner, having left with no other option, approached this Court once again by way of filing Contempt Petition No.1442 of 2013, and the said Contempt Petition was closed, by order, dated 13.08.2013, with the following observations:-

" Para No.3 Today, when the Contempt Petition was taken up, the learned Government Advocate (Criminal Side) submitted that charge sheet has already been laid in the case and thus, the order of this Court has been complied with. The said statement is recorded.

Para No.4 In view of the above, this Contempt Petition is closed."

4. The learned counsel appearing for the petitioner submitted that aforesaid order, dated 13.08.2013, was passed based on the misrepresentation made before this Court that the respondent/Police have laid the final report. But the fact remains that, respondent/Police have not filed final report till date. Hence, the petitioner was constrained to file the present Petition, seeking for

transfer of the investigation to CBCID, as already stated above.

5. When this Petition was taken up on the last occasion, i.e, on 12.06.2015, this Court summoned the Inspector of Police, District Crime Branch, Namakkal District to be present before the Court today along with Case Diary pertaining to Crime No.9 of 2011. Accordingly, the Inspector of Police, Namakkal, by name S.Balakrishnan is present before this Court today, and he filed a status report, wherein, in para No.9, it is stated as follows:-

"It is submitted that after the completion of investigation, Tmt.Saradha, then Inspector of Police, prepared a charge sheet on 06.08.2013, against the accused for offence under Sections 419, 467, 468, 471, 467 read with 34, 468 read with 34, 471 read with 109, 447 and 506(i) IPC. But the Special Court for ALGSC Cases, Namakkal, did not take on file based on the common order passed by this Court in W.P.Nos.18871, 21126 and 10198 of 2012, dated 07.01.2013."

6. It is true that the orders passed by the Government, constituting Special Court for Anti Land Grabbing Special Cell cases were challenged before this Court and this Court had granted stay on 07.01.2013, and when the matter went before the Hon'ble First Bench of this Court, the First Bench quashed the Government Orders, aggrieved by which, the State has preferred Special Leave Petition before the Hon'ble Supreme Court. The Hon'ble Supreme Court has admitted the matter, and while granting stay, Hon'ble Supreme Court has made it clear that police investigation relating to land grabbing cases shall proceed, but as regards trial, the same shall not be proceeded with.

7. Under such circumstances, when the final report was filed before the Special Court for Anti Land Grabbing Special Cell Cases, Namakkal, the learned Special Judge appears to have refused to entertain the same. This Court finds that the case in Crime No.9 was registered wayback in the year 2011, and though investigation has been completed, Police is not able to file the final report because of the aforesaid developments.

8. In view of the above said circumstances of the case, this Court, so as to meet the ends of justice, issues the following direction:-

i) The second respondent/Inspector of Police, District Crime Branch, Namakkal District, is directed to submit the final report filed in Cr.No.9 of 2011, to the learned Judicial Magistrate, Thiruchengodu, within a period of two

weeks from today.

ii) As and when such report is being filed by the second respondent, the learned Judicial Magistrate, Thiruchengodu, is directed to proceed with the same in accordance with law.

Post this matter on 03.07.2015, for reporting compliance of this order."

4. Today, Mr.S.Balakrishnan, Inspector of Police, District Crime Branch [ALGSC], Namakkal District is present and the learned Additional Public Prosecutor on instructions, submitted that Final Report has been filed before the Judicial Magistrate, Tiruchengode and the same has been taken on file as CC.No.247 of 2015.

5. Recording the same, this petition is closed. If the defacto complainant is aggrieved, he may approach the concerned Magistrate and file a protest application, if so advised.

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s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

- 1.The Superintendent of Police,
Anti Land Grab Special Cell,
Namakkal District.
- 2.The Inspector of Police,
District Crime Branch,
Namakkal District.
- 3.The Public Prosecutor,
High Court, Madras.
- 4.The Judicial Magistrate,
Tiruchengode.
5. -do- thro'The Chief Judicial Magistrate,
Namakkal.

+ 1 cc to M/s.A.Thiyagarajan, Advocate SR 33281

skv(co)
prk15/7

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