

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 3-11-2015

CORAM:

THE HON'BLE MR. JUSTICE P.N.PRAKASH

Criminal Original Petition No.20267 of 2015

Jeeva @ Jeevanayagam

.. Petitioner

Vs.

The Assistant Commissioner of Police,
Madipakkam Range,
Keelkattalai, Chennai

... Respondent

Criminal Original Petition filed under Section 482 of Code of Criminal Procedure with a prayer to direct the respondent Police to register the complaint of the petitioner dated 4.5.2015 given to the respondent police and investigate the same in accordance with the law.

For Petitioner : Mr.S.Ganesan

For Respondent : Mr.C.Emalias,
Additional Public Prosecutor

Reserved on	Pronounced on
28-10-2015	3-11-2015

O R D E R

The petitioner herein earlier lodged a complaint dated 19.1.2015 against the Inspector of Police and Sub-Inspector of Police of S-8 Adambakkam Police Station and followed it up by filing Crl.O.P.No.2519 of 2015 seeking a direction to the Police to register his complaint. In Crl.O.P.No.2519 of 2015 this Court passed the following order on 7.4.2015:

"3. It is the case of the petitioner that he is being unnecessarily harassed by the Inspector of Police and Sub Inspector of Police of S-8, Adambakkam Police Station by unnecessarily keeping him under detention. In this regard, the petitioner has sent a complaint to the Commissioner of Police and

Director of Vigilance and Anti Corruption and marked a copy of the complaint to the Joint Commissioner of Police and Deputy Commissioner of Police.

4. Under the Code of Criminal Procedure, the complaint should be given to the Station House Officer and thereafter to the Superintendent of Police. Therefore, this petition is closed with a liberty to the petitioner to lodge a complaint before the Assistant Commissioner of Police under whose jurisdiction the S-8, Adambakkam Police Station is situated."

Since this Court had given liberty to the petitioner to lodge a fresh complaint, on 4.5.2015 the petitioner made a fresh to the Assistant Commissioner of Police, Madipakkam, Chennai, and has filed the present petition for direction to the Police to register FIR based on his complaint dated 4.5.2015.

2. Heard the learned Counsel for the petitioner as well as learned Additional Public Prosecutor for the State.

3. Mr.R.Lekshminarayanan, Assistant Commissioner of Police, Madipakkam Range, Chennai has filed a Status Report, wherein he has stated as follows:

"2. It is submitted that on 14.12.2014 at about 2.00 p.m., one Tr.Shankar, S/o.Saminathan lodged a complaint before the respondent police stating that on the same day at about 1.00 p.m., while he was proceeded to the bus stop at Blue Bike Bust stop, Medavakkam Main Road, two unknown persons intercepted him and with knife point committed robbery of Rs.2350/- and Motorola cellphone from the complainant, at that time, one accused person saying that his name is Thirunelveli Rajadurai, and his friend namely Tamilzhagan, and they threatened the complainant that if he out the robbery, they will commit murder and escaped from the spot. Hence, the complainant Shankar preferred complaint against the above said accused persons.

Based on the above complaint, a case was registered in S-8 Adambakkam P.S. Crime No.2602 of 2014 u/s.341, 336, 392, 427, 397, 506(ii) IPC against Rajadurai and Tamilzhagan by the Inspector of Police, S-8, Adambakkam P.S. and taken up the case for investigation.

3. It is submitted that the special team headed was formed headed by Tr.Babu Raj, Inspector of Police, along with Tr.Surya Narayanan, Special Sub Inspector of Police, Tr.Ramalingam, Head Constable to investigate the above said crime number and to secure the accused persons.

4. It is submitted that during the course of investigation, on 16.12.2014 at about 13.00 hours near Mount Railway Bus Stop, Tr.Baburaj, Inspector of Police, arrested the accused persons namely Rajadurai @ City Raja, S/o.Jayapal and Tamilzhagan @ Tamil, S/o.Raman and recorded Rajadurai @ City Raja's confession in the presence of witnesses namely Tr.Sathya, Tr.Vincent. Wherein, he admitted the offence in Crime No.2602 of 2014 and apart from this case they also involved in the following cases:

Sl .N o.	Police Station, Crime No. & Section of Law	Accused
1.	Puzhal P.S. Cr.No.317/2000 u/s.457, 392 IPC	Only Rajadurai @ City Raja involved in this case
2.	Ambattur P.S. Cr.No.925/2012 u/s.379 IPC	Only Rajadurai @ City Raja involved in this case.
3.	Ambattur P.S. Cr.No.959/2012 u/s.341, 392, 294 (b), 336, 397 IPC	Only Rarjadurai @ City Raja involved in this case
4.	Thirumullaivoyal P.S. Cr.No.328/2012 u/s.379 IPC	Only Rarjadurai @ City Raja involved in this case
5.	S-8 Adambakkam P.S. Cr.No.464/2014 u/s.394 IPC	Both Rajadurai @ City Raja & Tamilzhagan @ Tamil involved in this case
6.	S-8 Adambakkam P.S. Cr.No.1129/2014 u/s.392 IPC	Both Rajadurai @ City Raja & Tamilzhagan @ Tamil involved in this case
7.	S-8 Adambakkam P.S. Cr.No.2602/2014 u/s.392 IPC	Both Rajadurai @ City Raja & Tamilzhagan @ Tamil involved in this case

5. It is submitted at the time of confession of S-8 Adambakkam P.S. Crime No.464 of 2014, u/s.394 IPC, the accused persons confessed that they pledged the stolen property of 5 sovereigns of gold chain, which was involved in S-8 Adambakkam P.S. and obtained cash of Rs.73,000/- with one Jeeva @ Jeevanayagam/petitioner herein and they know his address. Based on the above confession, Tr.Baburaj, Inspector of Police along with this team police went to residence of Jeeva @ Jeevanayagam at Velacherry along Rajadurai and Tamilzhagan and they identified the petitioner. The Inspector of Police enquired about the stolen property and he replied that Rajadurai and Tamilzhagan gave 6 sovereigns of stolen chain and they want money, hence, the petitioner sold the said stolen chain to one Sanjay, who is running pawn broker shop namely G.K.Paramal at Kodambakkam and got an amount of Rs.73,000/- and given the same to Rajadurai and Tamilzhagan.

Based on the above statement, the Inspector of Police along with his police party and the petitioner went to G.K.Parasmal, Pawn Broker shop at Kodambakkam and enquired Tr.Sanjay and he produced the stolen gold chain of 5 sovereigns and the petitioner identified the same. Further, the Inspector of Police seized the said property by way of seizure mahazar in the presence of witnesses namely Tr.Sathya, Tr.Vincent and furnished the copy of the seizure mahazar to Tr.Sanjay, who is the owner of the said pawn broker shop.

Subsequently, the Inspector of Police deposited the said gold chain before the Judicial Magistrate, Alandur by way of Form-95 vide P.I.No.328 of 2015 dated 28.7.2015 and the same was handed over to the owner of the property by the said court.

6. It is submitted that I deny the allegations mentioned by the petitioner in his petition that Tr.Babu Raj, Inspector of Police along with his police party went to his house and took photo of two laptops, one video camera, one laptop, and there is no occurrence was made on the said date. Further, the respondent police had enquired about the case property, after the due enquiry, the case property was seized by the respondent police in accordance with law.

7. It is more pertinent to mention that the petitioner is also involved in several theft and robbery cases were also registered as against this petitioner Jeeva @ Jeevanayagam and the same were

pending before the jurisdictional police stations as well as jurisdictional court for pending trial.

8. It is submitted that the petitioner Jeeva @ Jeevanayagam had also involved in the following cases:

Sl .N o.	Police Station, Crime No. & Section of Law	Stage of the case
1.	Palayamkottai P.S. Cr.No.1573/1999 u/s.395 r/w.397 IPC	Absconding accused in this case, Non-Bailable warrant is pending before the Principal District, Sessions Judge, Tirunelveli against the petitioner.
2.	Tirunelveli Junction P.S. Cr.No.1322/1999 u/s.397 IPC	Absconding accused in this case, Non-bailable warrant is pending before the Principal District, Sessions Judge, Tirunelveli against the petitioner.
3.	Selaiyur P.S. Cr.No.198/2000 U/s.324, 307, 397, 427, 506(ii) IPC	Absconding accused in this case, pending before the Principal District Sessions Judge, Chengalpet
4.	Tambaram P.S. Cr.No.39/2000 U/s.392, IPC in PRC No.17/2001	Absconding accused in this case, pending before the Principal District Sessions Judge, Chengalpet.

9. It is submitted that at the time of investigation in connection with Crime No.464/2014, u/s.394 IPC, accused City Raja gave confession about the petitioner Jeeva @ Jeevanayagam's participation in the sales of gold with the pawn broker shop. Accordingly, Tr.Baburaj, Inspector of Police, S-8 Adambakkam P.S., and his police team enquired the petitioner and based on his statement, seized the case property from Tr.Sanjay Pawn Broker, G.K.Parasmal, Kodambakkam, Chennai, weighing 40 grams gold chain by way of seizure mahazar (Form-95) in the presence of witnesses namely Tr.Sathya and tr.Vincent and produced the recovered property to the learned Judicial Magistrate at Alandur and followed all the procedures in recovering the stolen gold.

10. It is submitted that prior to this petition, the petitioner filed direction petition before this Hon'ble Court in CrI.O.P.No.2519 of 2015 with the same set of facts and the same was closed by this Hon'ble Court on 7.4.2015 with a direction that the petitioner to lodge a complaint before the Assistant Commissioner of Police under whose jurisdiction of S-8 Adambakkam P.S. is situated.

Again the petitioner moved this Hon'ble Court by way of filing this present petition with the same set of facts narrated in his complaint dated 4.5.2015 is utter falsehood and to mislead this Hon'ble Court with the ulterior motive for unlawful gain.

11. It is submitted that this petition is filed by the petitioner to harass the respondent police and prevent him from investigating the crime as against the accused person. Since he is an absconding accused in Tirunelveli Town P.S. and Palayankottai Town Police Station. Having been arrested and remanded to judicial custody, the accused must inform his address to the concerned police and his whereabouts while shifting the address from time to time which would enable the concerned police to serve summons to the petitioner for court proceedings. Hence, the intention of the accused is to continue his illegal deeds and refrain from court proceedings by simply absconding till date and all these facts were revealed during further investigation and also to escape from the clutches of law.

12. In any event, as a matter of investigation, all the efforts and enquiry was conducted by the respondent police only to secure justice to the innocent victims of stolen property and towards discharging the powers of investigation, interrogation or enquiry, there is no any personal gain to the police except the public cause and maintained law and order in the society."

4. Learned Counsel for the petitioner submitted that this petition itself has been filed only on 7th August, 2015, whereas Mr.R.Lekshminarayanan, Assistant Commissioner of Police, Madipakkam Range, Chennai, has signed the Status Report on 30.7.2015, which is incongruous.

5. Initially this Court was little surprised at this and when the learned Additional Public Prosecutor was questioned about that, he submitted that Mr.R.Lekshminarayanan completed the enquiry on 30.7.2015, on the complaint given by the petitioner, and thereafter he was transferred to another

station. When this Court ordered notice to the Police in this petition to file a Status Report, Mr.R.Lekshminarayanan, who conducted enquiry was asked to file a Status Report and he had prepared the Status Report and has given the date as 30.7.2015 thinking that he should give that date as enquiry was completed by him on that date.

6. Though this appears little odd, yet one cannot find serious fault with the official for not properly understanding the procedures of the Court. However, this Court called for the enquiry file and found that Mr.R.Lekshminarayanan, Assistant Commissioner of Police has conducted a detailed enquiry, and has closed the complaint given by this petitioner, giving cogent reasons therefor.

7. The Status Report filed by R.Lekshminarayanan, Assistant Commissioner of Police before this Court, the relevant portion of which has been extracted above, is nothing but a replica of the enquiry report. Learned Counsel for the petitioner attempted to pick holes by stating that the Assistant Commissioner of Police has not enquired the Pawn Broker Sanjay. This Court is unable to countenance this arguments since this Court finds that the enquiry has been conducted exhaustively, and there is no reason for this Court to doubt the findings of the Assistant Commissioner of Police.

In the result this petition is devoid of merits and accordingly the same is dismissed.

vr

-s/d-

Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

सत्यमेव जयते

To

1. The Assistant Commissioner of Police, Madipakkam Range, Keelkattalai, Chennai
2. The Public Prosecutor, High Court, Madras.

kk(co)
prk18/11

Cr1.O.P.No.20267 of 2015