

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 26.10.2015

DELIVERED ON : 05.11.2015

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

***W.P.Nos.28339 and 28340 of 2015**

1.C.Viswanathan

2.Asaliammal

... Petitioners in both ***WPs**

Vs

1.State of Tamil Nadu

Rep by Secretary Home Affairs
Fort St.George, Secretariat
Chennai 600 009.

2.The Commissioner of Police

No.132, EVK Sampath Road
Vepery, Chennai 600 007.

3.Inspector of Police

Central Crime Branch, EDF-II, Team-III
Vepery, Chennai 600 007.

... R1 to R3 in both ***WPs**

4.C.Ramalingam

... R4 in ***WP.28339/2015**

4.M.Durai Raj

... R4 in ***WP.28340/2015**

Prayer:- ***Writ Petitions** filed ***under Article 226 of the Constitution of India** to issue a writ of mandamus directing to change the investigation agency in Cr.Nos.431 of 2011 and 62 of 2014 on the file of CCB, EDF-II, Team-III, Vepery, Chennai 600 007 and to hand over the investigation to some other agency preferably CBI.

For Petitioners : Mr.D.Stephen

For R1 to R3 : Mr.C.Emalias,
Additional Public Prosecutor

C O M M O N O R D E R

The accused in Cr.No.431 of 2011 and Cr.No.62 of 2014 are before this Court for a direction to transfer the investigation of the said cases from the file of the Central Crime Branch to any other agency, preferably CBI.

2. Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor appearing for the State.

3. The respondent police have filed a common Status Report in both the cases, wherein the facts of the case have been extensively stated and the steps taken by the police have also been stated in detail. It may be worthwhile to extract paragraphs 2 to 19 from the Status Report:

"2.The case of the prosecution is that the defacto complainant Tr.Ramalingam has stated that the accused Viswanathan [A-1] created a factious and non-existence having plot bearing No.12, survey No.407/3B from poromboke lands at Venkateswara Nagar, Perungalathur in the name of his wife namely Asiliammal [A-2] and they sold the plot through S.Geetha [A-3] a power of attorney to one Shanmugam a deceased. The defacto complainant was impressed by deceased legal heirs S.Raja [A-4], S.Alamelu [A-5] and S.Rajalakshmi [A-6] as if the plot created from patta lands, though it is poromboke land and sold the plot No.12 for Rs.7 lakhs to the defacto complainant and cheated the complainant.

As per the direction of the Commissioner of Police, Chennai City, a case was registered in Central Crime Branch Crime No.431/2011 under Sections 406, 420, 465, 467, 468, 471 r/w 34 IPC by Tr.Jayasingh, the then Inspector of Police on 22.09.2011 at 10.15 hours.

3. It is submitted that during the course of investigation, the accused [A-1 to A-3] filed the anticipatory bail petitions before the Principal Sessions Court, Chengalpet in CrI.M.P.Nos.651 & 759/2013 respectively and the same were obtained by them on 28.02.2013 & 08.03.2013 respectively.

4. It is submitted that the then Inspector of Police has examined some more witnesses and recorded their statements and also collected the relevant documents pertaining to this case from concerned authorities.

5. It is submitted that the accused persons by name, 1) Viswanathan [A-1] and 2) Asiliammal [A-2] were arrested by the then Inspector of Police on 19.07.2014 and recorded their confession statements and also the documents were seized from them in the presence of the witnesses, by name, 1) Tr. Anbalagan and 2) Tr. Paranthaman.

A-1 & A-2 were confessed that A-1 had created the forged documents in Perungalathur Survey No.407/3B extends of 1.42 acres, based on that he was obtained the Adangal and Tax Receipts from Tr. Krishnamoorthy, the Village Administrative Officer, Perungalathur Village with the help of one Karunakaran [died] and Siluvairaj who are the brokers. Thereafter, the above said land having their possession and the same was handed over to Geetha (A-3) through General Power of Attorney.

Thereafter, the accused [A-1 & A-2] were produced before the Hon'ble Judicial Magistrate Court, Tambaram, Chennai and remanded to judicial custody.

6. I submit that after obtaining the bail, the accused [A-1 & A-2] were handed over the documents i.e. (1) Adangal Extract dated 27.11.1991 (2) Adangal Extract dated 21.12.2009 (3) Kist receipt dated 27.11.1991 as sureties to their son - Jagadheesh [A-4] and the same were produced before the Honourable High Court, Madras by A-4. The Honourable High Court, Madras directed the 3rd respondent to verify the documents genuineness.

7. I submit that the accused [A-1 & A-2] submitted the fake documents as sureties, since, Tr.M.Dorai Raj, Assistant Registrar (CS-III), High Court, Madras lodged a complaint against A-1 to A-4 before respondent police, after getting the approval from the higher officials, a case was registered against [A-1 to A-4] in Chennai CCB Crime No.62/2014 under sections 193, 209, 465, 468, 471 and 420 IPC by Tr.N.Rajendran, the then Inspector of Police on 12.4.2014 at 10.00 hours and he has taken up the investigation.

8. It is submitted that the then Inspector of Police has examined several witnesses and recorded their statements and also collected the relevant documents pertaining to this case from them.

9. I submit that as per the direction of the Honourable High Court, Madras, the then Investigation Officer, Tr.N.Rajendran has collected the document genuineness report from Tmt.Rama.Tahsildar, Tambaram, Chennai. It report reveals that the above said documents are fabricated and also the land [Poromboke] belongs to the Government.

10. I submit that he also made formal arrest of A-1 - Viswanathan and A-2 - Asiliammal in crime No.62 of 2014 who are lodged at Central Prison, Puzhal, Chennai. During the course of the investigation and recorded their confession statements of both the accused [A-1 & A-2].

11. I submit that on 14.4.2015, the then Inspector of Police arrested the accused Jagatheesan [A-4] in CCB Crime No.62/2014 and recorded his confession statement. Then, A-4 was produced before the learned Judicial Magistrate Court, Tambaram.

12. I submit that as per direction of the Honourable High Court, Madras, the then Inspector of Police has sent a requisition letter, dated 04.05.2015 to Sub Registrar, Padappai to fencing the Intimation Board regarding these cases [Crime Nos.431/2011 & 62/2014] at the said disputed land.

13. I submit that on 18.05.2015, the then Inspector of Police had examined Tr.Krishnamoorthy, Ex-Village Administrative Officer's of Perungalathur and recorded his statement and also collected the specimen signature from him.

Further, I submit that on 07.06.2015, the then Inspector of Police has sent a requisition letter to Tahsildar, Tambaram to furnish admitted signatures of V.A.O., Tr. Krishnamurthy and the Deputy Tahsildar, Tr. Jayakumar for the purpose of investigation.

14. I submit that on 30.05.2015, Tr.S.Venkatesan, Ex-Tahsildar of Tambaram was examined by the then Inspector of Police and recorded his statement.

15. I submit that the then Inspector of Police has sent a requisition letter to the Sub Registrar, Padappai to furnish the documents in Survey No.407/3B from 10.01.1995 to 01.04.2014 and the same was received by him.

16. I submit that on 19.06.2015, the following 7 witnesses who have purchased the above said land from A-3 were examined and recorded their statements.

17. I submit that the then Inspector of Police has sent a requisition letter, dated 17.06.2015 to the Assistant Commissioner of Police, Public Relationship Office, Chennai to collect the Finger Prints Photo of A-2 from the Sub Registrar, Padappai.

Further, I submit that the then Inspector of Police has sent a requisition letter dated 17.06.2015 to Sub Registrar, Tambaram to furnish the photos of the A-2's finger prints in Document No.641/1995 and the same was obtained by him on 20.06.2015.

18. I submit that due to the transfer of the above investigation officer, I joined as Inspector of Police, Central Crime Branch, EDF-II, Team-III, Vepery, Chennai on 30.08.2015 and took up further investigation of the case.

As per the direction of the Hon'ble High Court, Madras, the accused P.Ashok Kumar [A-7] was arrested by me on 30.09.2015 and recorded his confession statement. Then, A-7 was produced before the Judicial Magistrate, Tambaram i/c Alandur and remanded to judicial custody.

19. I submit that the respondent police have to do the following in order to complete the investigation:

- to apprehend the remaining accused [A-4 to A-6 & A-8]
- to collect the Opinion of Finger Print Expert."

4. Mr.D.Stephen, learned counsel for the petitioners submitted that the disputed land in question is a private land and that the police have made a misrepresentation to the Court that the land is a poromboke land.

5. It is seen that these petitioners were granted anticipatory bail by the Sessions Court and at the instance of the defacto complainant, anticipatory bail was cancelled in CrI.O.P.Nos.11466 of 2013 and 11467 of 2013 on 28.02.2015 by this Court by a detailed order, wherein the involvement of these petitioners in the offences have been set out.

6. Learned Additional Public Prosecutor produced a Report dated 12.09.2015 from the Tahsildar, Tambaram, addressed to the Inspector of Police, Central Crime Branch, wherein it is clearly stated that the land in Perungalathur village S.No.407/3B measuring 0.57.5 ares has been classified as "wet land" (Nanjai Tarisu) and it is not a private land nor patta has been issued to anybody. Therefore, the contention of Mr. Stephen, learned counsel for the petitioners that it is a private land appears to be prima facie incorrect. Since the investigation is going on in right lines, this Court is of the view that this is not a fit case to transfer the investigation to any other agency.

In the result, these petitions are devoid of merits and the same are dismissed.

Sd/-

Assistant Registrar (CS V)

Dated : 01.12.2015

***Corrected order to be issued**

Sd/- Sub Assistant Registrar (AD II)

Dated : 09.03.2016

//True Copy//

gms

Sub Assistant Registrar

To

1. The Secretary Home Affairs,
State of Tamilnadu,
Fort St. George, Secretariat
Chennai 600 009.

To be Substituted to the
order already despatched

2. The Commissioner of Police
No.132, EVK Sampath Road
Vepery, Chennai 600 007.

on 12.01.2016

3.The Inspector of Police
Central Crime Branch, EDF-II, Team-III
Vepery, Chennai 600 007.

4.The Public Prosecutor
High Court, Madras.

+1cc to Mr.J.Kannan, Advocate, S.R.No.63997

+1cc to Mr.G.Senthil Kumar, Advocate, S.R.No.63957

***W.P.Nos.**28339 and 28340 of 2015

AD(CO)
JD(17.12.2015)

CA(09/03/2016)



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