

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2015

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THE HONOURABLE MR. JUSTICE R.SUBBIAH

Crl.O.P.No.7593 of 2015

Catherine Mary

... Petitioner

Vs

1. The Director General of Police,
State of Tamil Nadu,
Mylapore, Chennai.

2. The Superintendent of Police,
Vellore District,
Vellore.

3. The Sub Inspector of Police,
Bagayam Police Station,
Vellore District.

... Respondent

Criminal Original Petition filed under Section 482 Cr.P.C. seeking a direction to transfer the investigation in Crime No.349 of 2014 on the file of 3rd respondent to CBCID to the file the final report within the time frame as directed by this Court.

For Petitioner : Mr.K.C.Karl Marx

For Respondents : Mr.C.Emalias

Additional Public Prosecutor

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O R D E R

The present criminal original petition has been filed seeking a direction to direction to transfer the investigation in Crime No.349 of 2014 on the file of 3rd respondent to CBCID to the file the final report within the time frame as directed by this Court.

2. According to the petitioner, she married her elder sister's husband after demise of her elder sister and out of their wedlock, a daughter was born. In the year 2007, when the petitioner went to attend a marriage function, one person contacted the petitioner over and introduced himself as Parthibaraja, belonging to Orappam village, Krishnagiri District and that he is working as a Police Constable in Vellore Central Prison. The said Parthibaraja expressed his liking towards the petitioner and also expressed his intention to marry her. But the petitioner informed him that she was already married. But in spite of the same, he was continuously following the petitioner and at one time, he waylaid the petitioner and informed that if the petitioner does not accept his proposal, he would commit suicide, but the petitioner warned him. But he coerced the petitioner and deceived her with his sweet words and finally, the petitioner got yielded to his speech. He instructed the petitioner to come to Vellore and made him to stay with him in Government Police quarters and during the stay, the petitioner and he lived as wife and husband and he promised to marry the petitioner and he exploited her sexually. Thereafter, he used to often ask money for his personal expenses, for which, the petitioner also deposited money in his account from State Bank of India, Elathagiri village. The said Parthibaraja had stated that he was highly indebted due to the loan obtained for the construction of his house and asked the petitioner to give huge amount, for which, the petitioner expressed her inability to mobilize such a huge amount, however, at this insistence, she gave 25 sovereigns of gold jewels to him. He got closure to the petitioner's husband and started to come her house. He also obtained Rs.2,00,000/- from the husband of the petitioner. At one point of time, the petitioner asked Parthibaraja to return money, but he executed a bond on 11.01.2010 stating that he had borrowed a sum of Rs.7,00,000/- and the same would repaid with interest at 2 per cent and further promised to marry the petitioner after his brother's marriage. After his brother's marriage, the petitioner asked him to marry her, but he refused. On 28.8.2012, the petitioner went to Parthibaraja's house and informed his brother and sisters the fact that Parthibaraja had sexual intercourse with her in the pretext of marriage and about extracting money from her. Parthibaraja and his family members had scolded the petitioner in filthy language and beat her. Later, said Parthibaraja called the petitioner over phone and informed that he had recorded relationship in his cell phone and threatened the petitioner to publish the same in the internet and insisted the petitioner to return the bond executed by him. On 24.10.2014, the petitioner went to the house of Parthibaraja and requested him to return the chip containing the video, but he refused to return the same, but showed the video in his cell phone. On the next day, said Parthibaraja and his sister went to the petitioner's house and threatened her husband and family members to return the bond or else, he would morph the

petitioner's daughter and publish it in the internet in obscene way. Being frightened, the family members of the petitioner had returned the bond. Aggrieved by the act of said Parthibaraja, the petitioner lodged a complaint before the Superintendent of Police, Krishnagiri District on 28.10.2014, who in turn, suggested the petitioner to give the complaint to the Superintendent of Police, Vellore and on 29.10.2014, the petitioner lodged the same before the Superintendent of Police, Vellore who forwarded the same to the 3rd respondent. The 3rd respondent registered a case in Crime No.349 of 2014 for the offences under Sections 417, 420 and 506(ii) IPC. The grievance of the petitioner is that the 3rd respondent, during the course of enquiry, often defended said Parthibaraja and accused the petitioner and abused her. He did not arrest the said Parthibaraja nor get back the cash, jewels and chip from him. As such, the petitioner gave a complaint to the DIG of Police, Vellore on 12.11.2014 and on his direction, one Mr.Ashok Kumar, the Additional Superintendent of Police, Vellore District has conducted the enquiry and submitted his report, which reveals that the 3rd respondent has not conducted proper investigation, because of which, the said Parthibaraja was able to get anticipatory bail. Therefore, according to the petitioner, right from the beginning, the 3rd respondent has not been conducting the investigation in a proper manner, but safeguarding the accused. Hence, the petitioner apprehended that if the investigation is handled by the 3rd respondent, she would not get justice. Hence the petition.

3. A status report has been filed by the Inspector of Police, Bagayam Police Station, Vellore District, stating that a complaint was lodged by the petitioner, alleging that one Parthibaraja has fraudulently extracted Rs.10 lakhs and 25 sovereigns of gold jewels from her and requested to get back her belongings, viz., cash, jewels, bond and chip from him. Based on her complaint, a case in Crime No.349 of 2014 under Sections 417, 420 and 506(ii) IPC r/w 4 of Women Harassment Act was registered by the 3rd respondent. During the course of investigation, the Inspector of Police collected the chip from A1 in the presence of the petitioner and while watching the same, there was no footage as alleged by the petitioner in her complaint. Thereafter, the house of the accused was searched, where no chip was found. Based on the report of the Additional Superintendent of Police, departmental action was initiated against the 3rd respondent and later, the Inspector of Police took up the investigation. While so, the said Parthibaraja lodged a complaint and the same was registered in Crime No.126 of 2015 under Sections 294(b), 384 IPC on 11.4.2015 on the file of Kandikuppam Police Station. According to the Inspector of Police, she has conducted the investigation in a fair, free and impartial manner in accordance with law and now the investigation is almost completed and final report is yet to be

filed. Therefore, the Inspector of Police sought for dismissal of the petition.

4. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents and perused the entire materials placed on record.

5. When this matter is taken up for hearing, the learned Additional Public Prosecutor would submit that based on the allegations that the 3rd respondent/Sub Inspector of Police is not conducting the investigation in a proper manner, the petitioner sought for a direction to transfer the investigation to CBCID, but subsequently, pursuant to the order of the DIG Police, one S.Lakshmi, Inspector of Police has undertaken the investigation and she has been conducting the same in a fair manner and hence, the question of transferring the case does not arise and moreover, investigation is almost completed and soon a final report is going to be filed.

6. In view of the submission made by the learned Additional Public Prosecutor and considering the fact that at present the 3rd respondent is not conducting the investigation since it has been subsequently taken up by one S.Lakshmi, Inspector of Police, who has also conducted the investigation in a fair and impartial manner, in my opinion, there is absolutely no need to transfer the investigation to CBCID as prayed for by the petitioner.

Accordingly, the Criminal Original Petition is dismissed.

-s/d-

Assistant Registrar (CSIV)

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Sub-Assistant Registrar

To

1. The Director General of Police,
State of Tamil Nadu,
Mylapore, Chennai.

2. The Superintendent of Police,
Vellore District,
Vellore.

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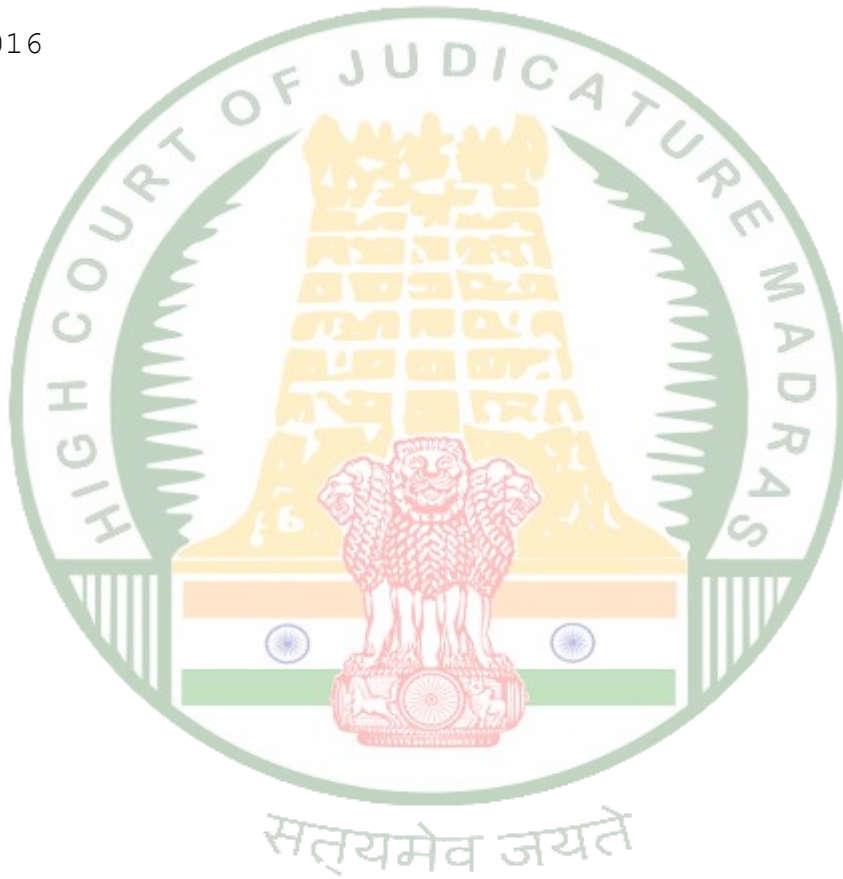
3. The Sub Inspector of Police,
Bagayam Police Station,
Vellore District.

4.The Public Prosecutor
High Court Madras

+1 cc to M/S.K.C.Karl Marx, Advocate sr.65274

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