

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 04.08.2016

Date of verdict : 10.08.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Cr1.O.P.No.15377 of 2016

N.Venkatraman

... Petitioner

Vs

The Inspector of Police,
Vigilance and Anti Corruption,
Cuddalore.

... Respondent

Criminal Original Petition filed under Section 482 Cr.P.C. to direct the respondent to transfer the investigation of the case in Crime No.2 of 2016 to some other investigating agency such as CBI or CB CID or District Crime Branch, Cuddalore or any other independent investigating agency for proper and necessary action against the culprits.

For Petitioner : Mr.C.Munusamy

For respondent : Mr.P.Govindarajan,
Addl. Public Prosecutor.

ORDER

The present criminal original petition has been filed by the petitioner seeking a direction to the respondent to transfer the investigation of the case in Crime No.2 of 2016 to some other investigating agency such as CBI or CB CID or District Crime Branch, Cuddalore or any other independent investigating agency for proper and necessary action against the culprits.

2. It is the case of the petitioner that he is the elected member of the Tholar Panchayat, Nallur Panchayat Union, Thittakudi Taluk, Cuddalore District. One R.Jeyamani is the President of the said Panchayat. The said R.Jeyamani along with her husband Rajendran committed financial irregularities and fraudulent activities and swindled money which is meant for several Government schemes such as Indira Awas Yojana, Thane Housing Scheme, etc. They have also not utilized the money, which is meant for draining, cleaning, laying of pipe line for drinking water purpose, digging of new borewells, construction

of houses, etc. In this regard, the petitioner has given a complaint with the respondent police and the same was registered in Crime No.2 of 2016 for the alleged offence punishable under Sections 420, 403 and 409 I.P.C. and under Sections 8, 10, 13(2) read with 13(1)(d), 13(2) read with 13(1)(c) and 13(2) read with 13(1)(e) of Prevention of Corruption Act, 1988 on 8.1.2016. Even though the said complaint was registered as early as in the month of January, 2016, the respondent police did not proceed further to arrest the accused persons or investigate the same. Hence, if the respondent is allowed to handle the case, they may close the file as mistake of fact. Hence, he has come forward with the present petition for the relief set out earlier.

3. Learned counsel appearing for the petitioner submitted that even though there is ample and plentiful evidence to show that the accused persons had misappropriated the funds which is meant of public welfare scheme, the respondent police did not take any action against the accused persons and hence, the petitioner apprehends that the respondent may close the case as mistake of fact. Thus, he sought to transfer the case in Crime No.2 of 2016 from the file of the respondent to some other agency.

4. The learned Additional Public Prosecutor by filing counter affidavit, submitted that in Crime No.2 of 2016, so far, the respondent has examined as many as 60 witnesses and recorded their statements. Further, more than 70 documents have been collected. In fact, a requisition was already given to constitute a team of highly qualified experts so as to find out the exact quality and quantity of irregularities committed by the accused persons under various schemes such as maintenance of hand pumps, electrical and civil maintenance works, digging of bore wells and laying pipe lines. So far, no substantial materials were found out to make out a case for disproportionate assets. Only on completion of investigation, a finding can be reached by the respondent regarding the disproportionate assets, if any, acquired and possessed by the accused persons. Thus, he sought for the dismissal of the petition.

5. Keeping the submissions made on either side, I have carefully gone through the entire materials available on record.

6. On a perusal of the affidavit, I find that only a bald and vague statement has been made. The only apprehension of the petitioner is that since the respondent has not arrested the accused persons, they may close the file at any time as mistake of fact. But, the said apprehension will not serve as a ground to transfer the case from the file of the respondent to some other agency. Only if the investigation is against the canon of settled principles of law, the same can be transferred. Based on some bald and vague statements, this Court cannot transfer the

case from the file of the respondent to CBI or CBCID or District Crime Branch, Cuddalore or any other independent investigating agency. Hence, the prayer that has been made in the petition cannot be entertained.

7. In the result, the criminal original petition is dismissed.

sbi

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1.The Inspector of Police,
Vigilance and Anti Corruption,
Cuddalore.

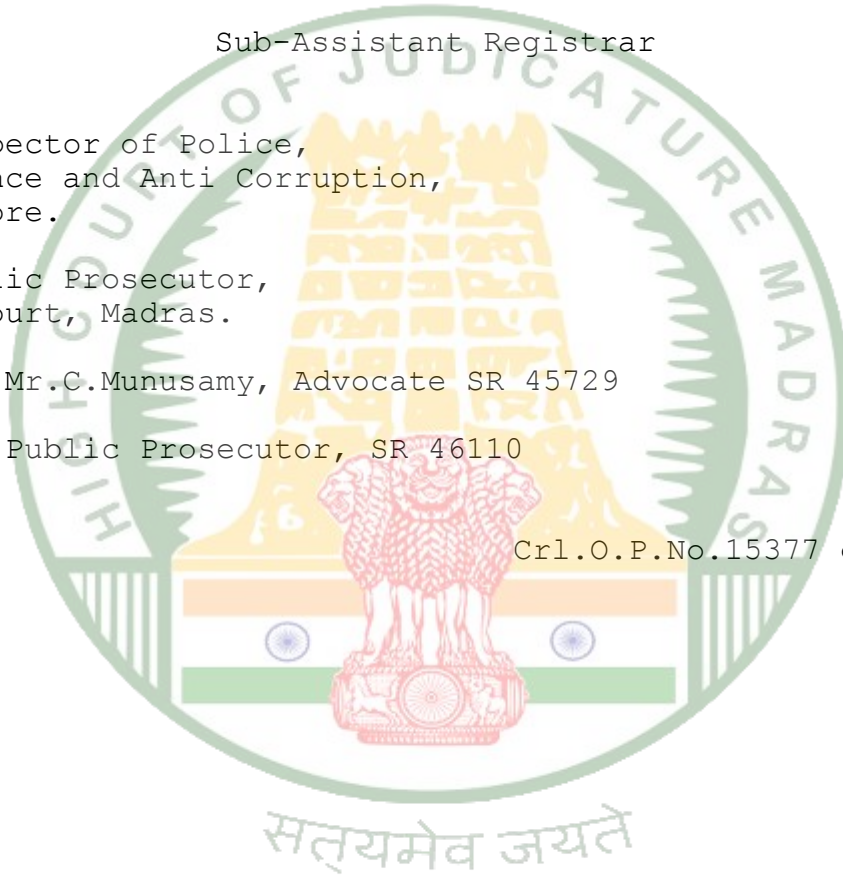
2.The Public Prosecutor,
High Court, Madras.

+ 1 cc to Mr.C.Munusamy, Advocate SR 45729

+ 1 cc to Public Prosecutor, SR 46110

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