

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.10.2016

CORAM:

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

CrI.O.P. No.25750 of 2010 & M.P. No.1 of 2010

- 1 T.Paulrajhun ...1st Petitioner/Defacto Complainant
- 2 Suganthi ...2nd Petitioner/2nd Petitioner
- vs.
- 1 The Public Information Officer
The Deputy Commissioner of Police
Headquarters
Commissioner Office
Egmore
Chennai 600 008 ...1st Respondent/1stRespondent
- 2 The State represented by
the Inspector of Police
J-9 Thoraipakkam Police Station
Chennai 600 097 ...2nd Respondent/Complainant
- 3 The State represented by
the Inspector of Police
J-10 Semencherry Police Station
Chennai 600 097 ...3rd Respondent/3rd Respondent

Criminal Original Petition filed under Section 482, Cr.P.C. to call for the records in connection with Cr. No.873 of 2007 under Section 380, 475 of IPC, Thoraipakkam Police Station and on the file in un-numbered C.C.No. of 2009 before the Judicial Magistrate, Alandur, Chennai and to transfer the investigation of the case for further proceedings by any other competent authority for fresh investigation and for submission of the report before the appropriate judicial authority within a fixed time.

For petitioners	Mr. R. Dakshinamurthy
For respondents	Mr. C. Emalias
	Addl. Public Prosecutor

ORDER

This Criminal Original Petition has been filed to call for the records in connection with Cr. No.873 of 2007 under Section 380 and 475 of IPC, Thoraipakkam Police Station and on the file in un-numbered C.C. No. of 2009 before the Judicial Magistrate, Alandur, Chennai and to transfer the investigation of the case for further proceedings by any other competent authority for fresh investigation and for submission of the report before the appropriate judicial authority within a fixed time.

2 The petitioners are husband and wife respectively. On the complaint lodged by the first petitioner, the second respondent police registered a case in Cr. No.873 of 2007 on 14.11.2007 under Sections 457 and 380 IPC. The petitioners had locked their house and gone to their daughter's house. When they returned on 13.11.2007, they found that there had been burglary in their house and that they had lost huge quantity of gold ornaments and other articles. The police registered the FIR and pursued the investigation. Since they were not able to apprehend the offender, the investigation has been closed as "undetected". Under such circumstances, this Criminal Original Petition has been filed seeking transfer of investigation from the file of the second respondent police to any other police.

3 Mr. E. Krishnamurthy, Inspector of Police, J-10 Semmencherry Police Station, has filed counter affidavit detailing the steps that were taken by the police for tracing the offender.

4 The learned counsel for the petitioners represented that police had arrested one John Basha (erroneously named as John Baskar) and had recovered huge quantity of jewellery from him, but, he has not been implicated by the police in the case at hand.

5 With regard to the aforesaid allegation, the counter filed by the Inspector of Police, J-10 Semmencherry Police Station, gives the following explanation:

"16. It is submitted that the petitioner had written a letter to the Right Information Act in order to know the specific findings of the Hindu paper release regarding the accused John Basha arrest. The petitioner got the reply that the seized gold belongs only on the below mentioned crime nos. which is mentioned below:

- (v-1) J-9 Thoraipakkam PS Cr. 881/06 u/sec. 454, 380 IPC
(v-b) J-9 Thoraipakkam P.S. Cr. 603/07 u/sec.380 IPC
(v-c) J-9 Thoraipakkam P.S. Cr. 95/08 u/Sec. 380 IPC
(v-d) J-6 Thiruvannamiyur P.S. Cr. 471/07 u/Sec.380 IPC
and
(v-e) S-5 Pallavaram P.S. Cr.504/07 u/Sec.379 IPC

17. It is submitted that based on the advertisement published in the newspaper the real truth of the crime is as follows:

1. J-9 Thoraipakkam P.S. Crime No. Crime No.881/2008 under Section 454, 380 IPC:

On 17.03.2008, at 17.00 hours, the accused named John Baskar @ Kannadi Baskar aged 41 years S/o Groose residing at 2/18, 4th Cross Street, West Saidapet, Chennai - 15 was arrested by Tr.Sundaresan, Inspector of Police, J-9, Thoraipakkam Police Station in Crime No.881/2008 under Section 454, 380 IPC. Based on the confession of the accused, the then investigation officer seized one wheeler vehicle and Rs.2 lakhs cash from him, on enquiry, the accused stated that the said jewels was sold by the accused and the amount was utilised to purchase a two wheeler i.e., Bajaj Discover and the balance amount of Rs 2 lakhs. The same said property was deposited on 02.04.2008 through Hon'ble Judicial Magistrate Court, Alandur in P.I. No.148/08. The said property has been handed over to the complainant - Tmt. Vinodhini. The case was pending trial in C.C. No.897 of 2008.

2. J-9 Thoraipakkam P.S. Crime No.603/2007 under Section 380 IPC.

On the same day, based on the confession of accused, the then investigation officer seized a sum of Rs.1.5 lakhs towards sold of jewel. The same said property was deposited on 09.04.2008 through Hon'ble Judicial Magistrate Court, Alandur in P.I. No.155/08. The same has been handed over to the complainant - Tr. Anandakumar. The case was pending trial in C.C. No.567/2008.

3. J-9 Thoraipakkam P.S. Crime No.95/2008 under Section 380 IPC:

On the same day, based on the confession of accused, the then investigation officer seized nearly 100 grams of jewels. The same said property was deposited on 27.03.2008 through Hon'ble Judicial Magistrate Court, Alandur in P.I. No.133/08. The same has been handed over to the complainant - Tmt. Lakshmi. The case was pending trial in C.C. No.568 of 2008.

4. J-6 Thiruvannamiyur P.S. Crime No.471/07 u/Sec 380 IPC:

On the same day, based on the confession of accused, the then investigation officer seized 1 set of gold bangles and Rs.3,000/-.

5. S-5 Pallavaram PS Crime No.504/07 u/Sec.379 IPC.

On the same day, based on the confession of accused, the then investigation officer seized gold jewellery."

6 This Court called for the police confession of John Basha and thoroughly perused the same. A reading of the police confession of John Basha discloses commission of house burglary in various places and there is no mention by him with regard to the petitioners' house. Therefore, the police cannot falsely implicate John Basha just because the petitioners desire so. In a case of this nature, only if the offender is caught and articles seized through his disclosure, can there be any meaningful progress in the investigation. This Court is satisfied with the investigation that has been conducted by the police so far.

In the result, this Criminal Original Petition is dismissed. Connected M.P. is closed.

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-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1 The Public Information Officer
The Deputy Commissioner of Police
Headquarters
Commissioner Office
Egmore, Chennai 600 008

2 The Inspector of Police
J-9 Thoraipakkam Police Station
Chennai 600 097

3 The Inspector of Police
J-10 Semencherry Police Station
Chennai 600 097

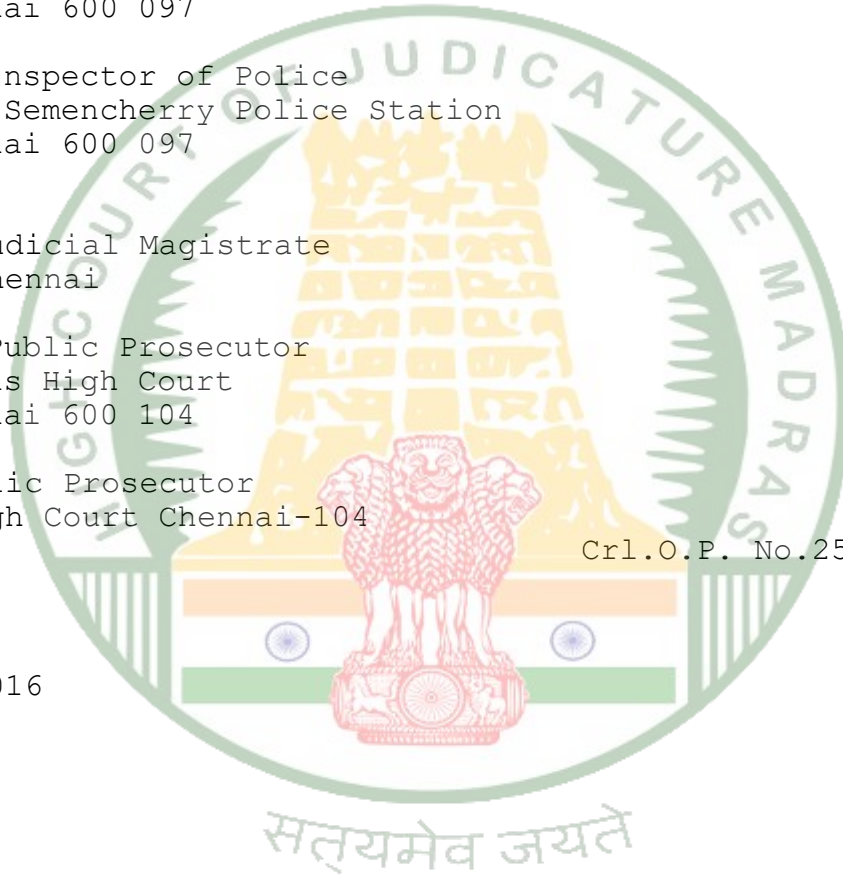
4. The Judicial Magistrate
Alandur Chennai

5 The Public Prosecutor
Madras High Court
Chennai 600 104

6. The Public Prosecutor
Madras High Court Chennai-104

Cr1.O.P. No.25750 of 2010

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