

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 23.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.O.P.No.21707 OF 2016 &
CRL.M.P.No.21707 of 2016

Mrs.Ruby Christy

.. Petitioner

versus

1. The State
rep.by the Inspector of Police,
G1 Vepery Police Station,
Chennai-600007.

2. The Commissioner of Police,
Chennai City,
Egmore,
Chennai-600008.

3. The Deputy Commissioner of Police,
Vepery,
Chennai-600007.

4. The Assistant Commissioner of Police,
Ayyanavaram Range,
Chennai.

5. Mr.D.Sankaran
The Assistant Commissioner of Police,
Ayyanavaram Range,
Chennai

.. Respondents

Prayer: This petition is filed under Section 482 Cr.P.C., praying

to transfer the investigation in the case in Crime No.782 of 2010 on the file of the first respondent from the 4th respondent to any other officer or Agency not below the rank of a Deputy Commissioner of Police, to enquire and conduct the investigation and to dispose of the case in accordance with law.

For Petitioner : Mr.R.Srinivas

For Respondents : Mr.C.Emalias,
Addl.Public Prosecutor

ORDER

This petition is filed, praying to transfer of the investigation of the case in Crime No. 782 of 2010 from the file of 4th respondent to any other officer or Agency not below the rank of a Deputy Commissioner of Police.

2. The petitioner is the accused in the above said crime No.782 of 2010 for the offences punishable under Sections 465, 468, 471, 420 and 506(i) IPC, which is pending for investigation on the file of the Assistant Commissioner of Police, Ayyanavaram Range, the 4th respondent herein. It appears that earlier, the petitioner has moved a petition in Crl.O.P.No.2692 of 2011 before this Court, seeking a direction to the Deputy Commissioner of Police, to appoint a reliable officer for the

purpose of conducting a fair investigation. This Court, by order dated 7.2.2011, while disposing the said petition, directed the Deputy Commissioner of Police to conduct a fair enquiry and proceed in accordance with law. Thereafter, it appears that the case was transferred from the file of Central Crime Branch to the file of Assistant Commissioner of Police, Ayyanavaram. In the meantime, the defacto complainant moved a petition in CrI.O.P.No.15951 of 2016 before this Court, seeking a direction to complete the investigation and file a final report within a time frame to be fixed by this Court. By order, dated 18.8.2016, this Court, while disposing the above said CrI.O.P.No.15951 of 2016, directed the Assistant Commissioner of Police to complete the investigation and file the final report within three months.

3. While so, the petitioner has come forward with the present petition, seeking transfer of the investigation to some other appropriate Officer or agency on the ground that the present Investigation Officer is friendly related to the defacto complainant and there would be no fair investigation.

4. Learned Addl.Public Prosecutor submits that the

investigation is in progress.

5. It is true that being a citizen of this country, everyone has a right to get his complaint properly investigated by the police and likewise, the accused is also entitled that the complaint lodged against him shall be investigated in a fair manner. However, fair investigation does not mean that the investigation should be done at the whims and fancies of the accused and that he can choose an Investigation Officer of his own choice. If the Investigation Officer is conducting the investigation strictly in accordance with the law and in terms of provisions of the Criminal Procedure Code in a fair manner without any bias, it is not open to the Court to interfere in such investigation.

6. In “***Divine Retreat Centre vs. State of Kerala***” reported in 2008(3) Scale 532, the Hon'ble Supreme Court has observed that neither the accused nor the complainant are entitled to choose their own investigating agency. The relevant observation is extracted as under:

"34. In our view, the High Court in exercise of its inherent jurisdiction cannot change the Investigating Officer in the midstream and appoint any agency of its own choice to investigate into a crime on whatsoever basis and more particularly on the basis of complaints or anonymous petitions addressed to a named Judge. Such communications cannot be converted into *suo motu* proceedings for setting the law in motion. **Neither the accused nor the complainant or informant are entitled to choose their own investigating agency to investigate a crime in which they may be interested.**"

7. Having regard to the above, this Court does not find any merit to entertain this petition. However, considering the apprehension expressed by the petitioner, the Deputy Commissioner of Police, Kilpauk is directed to monitor the investigation in Crime No.782 of 2010 which is being conducted by the Assistant Commissioner of Police, Ayyanavaram Range, Chennai.

With the above observation, this Criminal Original Petition is dismissed. Consequently, connected MP is closed.

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23.09.2016

P.N.PRAKASH, J.

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