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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.02.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CrI.O.P. (MD)No.1895 of 2016

and

CrI.M.P. (MD)No.982 of 2016

S.Ganesan

..Petitioner/L.W.1

Vs

1.State represented by
The Inspector of Police,
CBCID, Thoothukudi,
Thoothukudi District
In Crime NO.1/2014.

.. 1st Respondent/Complainant

2.P.T.Kottai Manikandan

3.Maharaja Subbaiyan

4.Kumar @ Jeyamalini Kumar

.. Respondents 2 to 4/
Accused 1 to 3

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to direct the first respondent police to conduct further investigation in Cr.No.1 of 2014 to find out the ten other persons involved in the case and file a final report afresh within the stipulated period.

For Petitioner :Mr.G.Marimuthu

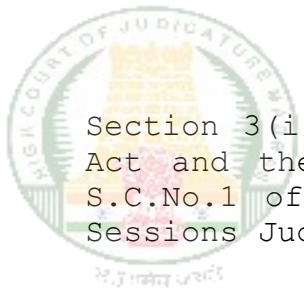
For Respondents :Mr.C.Mayilvahana Rajendran
Additional Public Prosecutor
for R.1

O R D E R

This petition has been filed to direct the first respondent police to conduct further investigation in Cr.No.1 of 2014 to find out the ten other persons involved in the case and file a final report afresh within the stipulated period.

2. Heard the learned Counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the State.

3. When the case was taken up for hearing, it is seen that on the complaint given by the petitioner, a case was registered in Cr.No.61 of 2013 by the Temple Police Station, Tiruchendur for the offences under Sections 147, 148, 447, 294(b), 323, 332, 341, 351, 353, 506(i) and 307 I.P.C. The petitioner was not satisfied with the investigation and therefore he approached this Court in CrI.O.P. (MD)No.16832 of 2013 to transfer of investigation. This Court, by order dated 03.12.2013 in CrI.O.P.(MD)No.16832 of 2013 transferred the investigation from the file of the Inspector of Police, Temple Police Station to the file of the CBCID, Thoothukudi. Thereafter, the CBCID, Thoothukudi has taken over the investigation of the case and filed a final report against the three named accused before the Judicial Magistrate No.I, Kovilpatti for the offences under Sections 120(b), 294(b), 332, 352, 440, 447, 342 r/w 34 I.P.C. and



Section 3(i) of Tamil Nadu Property (Prevention of Damage and Loss) Act and the case has been committed to the Court of Sessions in S.C.No.1 of 2015 pending on the file of I Additional District and Sessions Judge, Tuticorin.

4. At this juncture, Mr.G.Marimuthu, learned Counsel appearing for the petitioner submitted that the police have left out ten persons in the final report and charge sheeted only three persons.

5. On a reading of the complaint given by the petitioner, it is seen that the petitioner himself has stated three named persons and apart from three named persons, there were ten unnamed persons. The police are not able to find out the ten unnamed persons, which cannot be stated that the investigation is perfunctory. It is always open to the trial Court to invoke the provision under Section 319 Cr.P.C. for including the persons against whom evidence surfaces during trial. Under such circumstances, this Court finds that it is not a fit case to order transfer of investigation. Accordingly, this Criminal Original Petition is dismissed. Consequently, the connected Miscellaneous Petition is also dismissed.

Sd/
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The Inspector of Police,
CBCID, Thoothukudi,
Thoothukudi District.

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+One CC to G.Marimuthu, Advocate in SR.No.6747

Ssl

Cn/GSV-AN/12.2.2016/4C-2P

Cr1.O.P. (MD) No.1895 of 2016
03.02.2016