



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.02.2016

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.O.P.No.3416 of 2016

WEB COPY

Selvanayagam

.. Petitioner

Vs.

1.The Superintendent of Police,
Kanyakumari District.

2.The Inspector of Police,
Pudukkadai Police Station,
Kanyakumari district
Crime NO.39 of 2016

.. Respondents

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to transfer the investigation from the second respondent in Crime NO. 39 of 2016 to any other independent competent agency.

For Petitioner

:: Mr.S.Sivakumar

For Respondents

:: Mr.K.V.Rajarajan

Government Advocate (Cr1. Side)

O R D E R

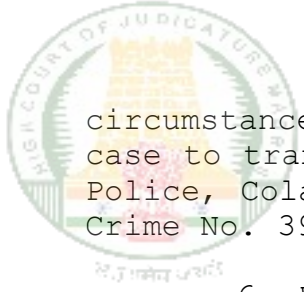
This Criminal Original Petition has been filed under Section 482 Cr.P.C to transfer the investigation pending on the file of the second respondent in Crime No.39 of 2016 to any other independent competent agency.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Cr1. Side) appearing for the respondents.

3.On reading of FIR, it appears that the opposite parties had set fire the shop of the petitioner and in connection with that,the respondent police registered a case in Crime No.39 of 2016 for offence under Section 436 IPC on 21.01.2016. Thereafter the first accused was arrested on 27.01.2016 and it is the grievance of the petitioner that the police have altered the FIR from offence under Section 436 IPC to Section 435 IPC.

4. This Court gave its anxious consideration to the submissions made on either sides.

5. In this case Section 436 IPC will not be made applicable where the place used as a place of worship, as a human dwelling, as a place for custody of property, whereas the shop of the petitioner does not fall in any of the categories. Further, the learned Government Advocate submitted that the first accused was arrested and the second accused also surrendered. Therefore, the alteration report cannot be faulted. In such



circumstances, in the considered opinion of this Court, it is not a fit case to transfer the investigation. However, the Deputy Superintendent of Police, Colachal Sub Division is directed to monitor the investigation in Crime No. 39 of 2016 on the file of the second respondent.

6. With the above direction, this Criminal Original Petition is closed.

Sd/-

Assistant Registrar (Crl.side)

/True copy/

Sub Assistant Registrar

To

1.The Superintendent of Police, Kanyakumari District.

2.The Inspector of Police, Pudukkadam Police Station,
Kanyakumari District

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

4.The Deputy Superintendent of Police,
Colachal Sub Division, Kanyakumari District.

+1 CC to Mr.S.Sivakumar, Advocate, SR No.10918

Crl. O.P. (MD) No.3416 of 2016
25.02.2016

CM

SH/SKS-RR:10.03.2016:2P/6C