



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.04.2016

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THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP(MD) No.3711 of 2016

M.Meeran Mydeen

..Petitioner

Vs

1. The Commissioner of Police,
Tirunelveli City, Tirunelveli.

2. The State rep. by
The Inspector of Police,
Perumalpuram Police Station
Tirunelveli, Tirunelveli District
Crime No.397 of 2014

3. The Deputy Superintendent of Police,
CBCID Wing,
Tirunelveli District, Tirunelveli.

4.Muthukumar

5.Rajkumar

6.Shenbagasuresh

7.Jacob Chellaiah

8.Hari Gobalakrishnan

9.Kamaraj

.. Respondents

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C. praying to withdraw and transfer the investigation in connection with Crime No.397 of 2014 on the file of the Inspector of Police, Perumalpuram Police Station, Tirunelveli, Tirunelveli District to any other agency, more particularly, to the 3rd respondent namely the Deputy Superintendent of Police, CBCID Wing, Tirunelveli District, Tirunelveli forthwith.

For Petitioner

: Mr.S.Palani Velayutham

<https://hcservices.ecourts.gov.in/hcservices/>

For Respondents

: Mrs.S.Prabha for R1 to R3
Government Advocate(Crl.Side)

**O R D E R**

This petition has been filed praying to withdraw and transfer the investigation in connection with Crime No.397 of 2014 on the file of the Inspector of Police, Perumalpuram Police Station, Tirunelveli, Tirunelveli District to any other agency, more particularly, to the 3rd respondent namely the Deputy Superintendent of Police, CBCID Wing, Tirunelveli District, Tirunelveli forthwith.

2.It is seen that on the complaint lodged by the Village Administrative Officer, the respondent police registered a case in Crime No.397 of 2014 on 15.09.2014 under Section 4 of the Explosives Substance Act against unknown persons. On a reading of the FIR, it is seen that Explosives were recovered by the police on the information given by the Village Administrative Officer from Reddiarpatti Bypass Bridge near Tirunelveli. While the investigation was in progress, the respondent police arrested one Muthukumar and Rajkumar and they have been released on bail. Some of the accused were also enlarged on anticipatory bail. While so, this petitioner has come forward with this petition as a Public Interest cause by contending that the arrested persons are not the true accused, and that they have been falsely implicated by the police in the place of the true accused.

3. The respondent police has filed a counter affidavit, wherein in Paragraph No.5, it is stated as follows:

"5.It is humbly submitted that the averments in the 5th paragraph are partially true. It is submitted that on 18.09.2014 at 10.30 hours the accused Nos.1 to 3, ie., the respondents 4 to 6 herein had appeared before the defacto complaint viz., the Village Administrative Officer of Reddiarpatti and admitted the fact that on 15.09.2014, while taking the said explosive substances ie. 13 blasting geletine sticks and 12 electric detonators in the drilling machine Tractor from Itteri Village to Srivaikundam, they missed it on their way during transit. They added that on knowing the matter of seizure of the explosives through newspapers, they came there and admitted the fact. The respondent 4 to 6 herein were produced before the 2nd respondent herein for taking further action and in turn, the 2nd respondent herein had arrested the accused 1 to 3 (respondents 4 to 6) recorded their confession and sent them for remand. In the light of the confession of the accused No.1 herein are persons, viz., the respondents 7 to 9 herein were added accused in this case."



4. In the considered opinion of this Court, the present petitioner, even according to its own showing, is a member of a political party and he has nothing to do with the investigation, which is in progress. This Court cannot pre-suppose that the investigating authorities are not properly investigating the case in the light of the presumption in Section 114(e) of the Evidence Act.

5. Section 114(e) of the Indian Evidence Act reads as follows:

"114. Court may presume existence of certain facts - The Court may presume the existence of any fact which it thinks likely to have happened, regard being had to the common course of natural events, human conduct and public and private business, in their relation to the facts of the particular case.

.....

(e) That judicial and official acts have been regularly performed."

6. In Aher Raja Khima v. State of Sourashtra reported in AIR 1956 SC 217, the Hon'ble Supreme Court has given the following caution:

"The presumption that a person acts honestly applies as much in favour of a police officer as of other persons, and it is not a judicial approach to distrust and suspect him without good grounds therefore. Such an attitude could do neither credit to the magistracy nor good to the public. It can only run down the prestige of the police administration."

7. In view of the above, this Court finds that the petitioner has no locus standi to plead for transfer of investigation on public interest under Section 482 of the Code of Criminal Procedure and on facts also, this is not a fit case for transfer as prayed for.

8. In the result, the petition is devoid of merits and the same is dismissed.

Sd/-
Assistant Registrar

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Sub Assistant Registrar



To

1. The Commissioner of Police,
Tirunelveli City, Tirunelveli.

2. The Inspector of Police,
Perumalpuram Police Station,
Tirunelveli District, Tirunelveli.

3. The Deputy Superintendent of Police,
CBCID Wing,
Tirunelveli District, Tirunelveli.

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

+1cc to Mr.S.Palanivelayutham, Advocate, Sr.No.21793

RR

JM/AN-MP/19.05.2016/4P-6C

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