



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.10.2016

CORAM

THE HON'BLE MR.JUSTICE K.KALYANASUNDARAM

Cr1.O.P. (MD) No.904 of 2016

T.S.Pasupathy

.... Petitioner

-Vs-

1.The Commissioner of Police,
Tiruchirapalli.

2.The Inspector of Police,
Tiruchy Cantonment Police Station,
Tiruchirapalli.

.... Respondents

Prayer: Petition filed under Section 482 of Code of Criminal Procedure, to direct the transfer of investigation in Crime No.788 of 2015 on the file of the 2nd respondent to CBCID or any other authority as this court may deem it fit and pass such further orders.

For Petitioner

: Mr.AR.L.Sundaresan
Senior Counsel
for M/s.AL.Ganthimathi

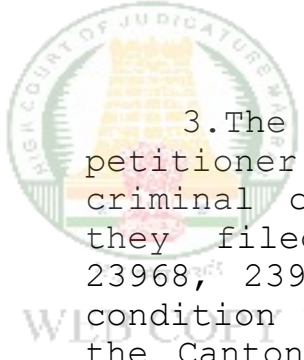
For Respondents

: Mr.K.Anbarasan
Govt. Advocate (Cr1.Side)

O R D E R

This petition is filed seeking for a direction to transfer the investigation in Crime No.788 of 20015 from the file of the 2nd respondent to CBCID or any other competent agency.

2.The case of the petitioner is that on 16.05.2014, he along with the other party cadres were celebrating the election victory of the party in front of his house. While so, Mr.V.N.Ravi, who is holding a key post in the AIADMK party along with his men, barged into the Kiosk and attacked the petitioner and his sons Ramesh, Vivekanandan and Tamilselvan and the cadres gathered there with iron rods, glass bottles and casuarinas sticks, thereby caused injuries to them and immediately, they were admitted in K.M.C Hospital, Chennai, for treatment. Although, the petitioner lodged a complaint before the Inspector of Police, Virugambakkam Police Station, the police did not register a case on the instructions of the said V.N.Ravi.



3.The petitioner has further alleged that subsequently, the petitioner and his family members were falsely implicated in criminal case at the instance of the said V.N.Ravi. Therefore, they filed anticipatory bail petitions in CrI.O.P.Nos.23946, 23968, 23969, 25015 and 23775 of 2014 and they were allowed on condition that they had been residing at Trichy and report before the Cantonment Police Station, daily at 10.30 a.m. Subsequently, the condition was modified, directing them to appear before the Virugambakkam Police Station daily at 06.30 pm for a period of two weeks.

4.On 21.10.2014, when they gone to Virugambakkam Police Station to comply with the condition, they were not allowed to sign and they were asked to come on the next day stating that the Inspector of Police was not available in the Police Station. The same thing happened on 22.10.2014 and 23.10.2014. It is further alleged that on 24.10.2014, they were shouted in vulgar languages and also threatened with dire consequents by the Inspector of Police, Virugambakkam. So, they had gone to Trichy Cantonment Police station. On 05.11.2014, Mr.Jayaraj, the Inspector of Police, attached to the Virugambakkam Police Station along with Goondas came to Trichy in a Private Van and attacked the petitioner and his sons and his wife in front of the Cantonment Police station. The illegal act was captured in the CCTV installed in the Campus of the Trichy Cantonment Police Station. The petitioner and his sons lodged a complaint before the Judicial Magistrate No.2, Trichy, on the same day and the learned Judicial Magistrate has directed the local police to register a case.

5.Despite the same, the case was not registered. So, the petitioner moved CrI.O.P.No.13947 of 2015 to register a case against the Inspector of Police, Jayaraj and his henchmen. Though, the averments in the complaint would attract offences under Sections 120B, 341 and 506(ii) of IPC and the provisions of Prevention of Woman Harassment Act, a case was registered only for the offences under Sections 147, 341, 294(b), 323 and 506(i) IPC.

6.Mr.AR.L.Sundaresan, learned Senior counsel appearing for the petitioner would urge that the petitioner and his family members, including his wife and his spastic son were brutally attacked by the Inspector of Police Mr.Jayaraj on 05.11.2014. Though a complaint was preferred immediately, the 2nd respondent have not even registered a case and only after direction by the High Court, a case was registered in Crime No.788 of 2015 on 02.09.2015. There are ample evidence available to prove that the said Jayaraj had unauthorizedly left the Virugambakkam police station and travelled upto Trichy in a private car and attacked the petitioner and his family members, thereby committed the offence and even after the ~~complaint was preferred immediately~~ the case, there was no substantial progress in the investigation, so, the petitioner has lost his faith with the investigation of the 2nd respondent and ends of justice requires



that the case has to be transferred to some other competent agency for fair investigation.

7.The 2nd respondent filed a counter affidavit, refuting each and every allegation contending that the complaint given by the petitioner is false.

8.Mr.K.Anbarsan, learned Government Advocate (criminal side) appearing for the respondents would submit that the 2nd respondent has registered the case, based on the direction issued by this Court in CrI.O.P.No.13947 of 2015, however, due to non co-operation of the petitioner, the investigation could not be proceeded. It is further submitted that the summons sent to the petitioner and the other witnesses were returned with endorsement as 'refused'. So, at this juncture, they cannot make allegations against the 2nd respondent without any proof and prayed for the dismissal of the transfer petition.

9.Heard the rival submissions and perused the records.

10.It is alleged that on 105.11.2014 the petitioner and his family members were attacked by Jayaraj, the Inspector of Police, attached to Virugambakkam Police Station in front of the Cantonment Police Station, Trichy. The said incident has been recorded in the CCTV installed in the Campus of the Cantonment police station.

11.It is further alleged that on the same day, the petitioner has lodged a complaint with the Judicial Magistrate No.2, Trichy. However, the case came to be registered only on 02.09.2015. The 2nd respondent would state that due to non-operation of the petitioner, there is no substantial progress in this case. The typed set filed by the 2nd respondent would reveal that they sent the summons only 03.01.2016, but they have not produced any material to show that earlier summons sent to the petitioner has been returned and they did not extend their support for proper investigation.

12.Taking into consideration the allegations made in the transfer petition and the counter affidavit filed by the 2nd respondent, this court is of the view that in the interest of justice, the case is to be transferred to CB-CIB.

13.In such view of the matter, this petition is allowed and the investigation of the case in Crime No.788 of 2015 on the file of the 2nd respondent is transferred to the CB-CID, Chennai. The 2nd respondent is directed to transfer the entire case records to the CB-CID. The Superintendent of Police, CB-CID, Chennai, shall nominate a competent Officer to investigate case and monitor the investigation. Final report shall be filed before



the concerned Court having jurisdiction, within a period of six months from the date of taking over the investigation from the 2nd respondent police.

WEB COPY

14. With the above directions, this petition is disposed of.

Sd/-

Assistant Registrar (CSII)

/True Copy/

Sub Assistant Registrar

er

To,

1. The Commissioner of Police,
Tiruchirapalli.
2. The Inspector of Police,
Tiruchy Cantonment Police Station,
Tiruchirapalli.
3. The Superintendent of Police,
CB-CID, Chennai.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/s. AL. Ganthimathi Advocate Sr.No. 61331

JAM/03.11.16/SS 2 /4p-6c

Cr1.O.P. (MD) No.904 of 2016
18.10.2016