

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.09.2017

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THE HON`BLE MR.JUSTICE A.D. JAGADISH CHANDIRA

Crl.O.P.No.7149 of 2011

A.S.Phorashkhan

... Petitioner

Vs

State rep. by

1.The Commissioner of Police,
Egmore, Chennai-600 008.

2.The Additional Superintendent
of Police, C.B.C.I.D, Metro Wing,
Guindy, Chennai-600 006.

3.The Inspector of Police,
C-1, Flower Bazaar Police Station,
Chennai-600 001.

Respondents

...

Criminal Original Petition filed under Section 482 Cr.P.C to direct the 1st respondent police to transfer the investigation in Crime No.81 of 2006 pending on the file of the 3rd respondent to the 2nd respondent namely Additional Superintendent of Police, C.B.C.I.D., Chennai.

For Petitioner : M/s.R.Sasikumar
For^t Respondent : Mr.B.Ramesh Babu
Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been filed by the petitioner/complainant seeking to direct the 1st respondent police to transfer the investigation in Crime No.81 of 2006 pending on the file of the 3rd respondent to the 2nd respondent namely Additional Superintendent of Police, CBCID, Chennai.

2. The facts as projected by the petitioner is that he is the owner of Thagir Jewellery Mart at No.37/5, Devaraja Mudali Street, 2nd Floor, Flower Bazaar, Chennai-600 003 and that on 17.02.2006, the shop had been burgled and gold jewellery and silver jewellery to the value of Rs.40,00,000/- were stolen from his shop. Thereafter, he lodged a complaint before the C-1, Flower Bazaar Police Station and the 3rd respondent had registered a case on the same day in Crime No.81 of 2006 for offences under Sections 457 and 380 IPC and that till date no action has been taken by the 3rd respondent to secure the accused and recover the properties and that he also made

representations to the higher officials and no action was taken. Thereafter, he had earlier filed CrI.O.P.No.10032 of 2010 with the very same prayer to transfer the investigation. But, however, on the submission of Government Advocate (CrI. Side) on behalf of the 3rd respondent that on completion of investigation, that action was dropped as "Undetected" and the referred notice was also served on the complainant, the earlier petition in CrI.O.P.No.10032 of 2010 was dismissed. The petitioner had approached the concerned Magistrate's Court and filed a petition and the court on 27.1.2011 has stated that on perusal of records, it is seen that the final report has not been filed by the respondent police and the Magistrate also directed the 3rd respondent to file the final report without any delay. But, however, the 3rd respondent did not file the final report, thereby the Magistrate had held that the defacto complainant at that stage cannot file a petition for further investigation or reinvestigation and had submitted that if the defacto complainant is aggrieved by the final report he may very well initiate proceedings under Section 200 Cr.P.C against the accused and thereby dismissed the petition. The grievance of the petitioner is that even after such order has been passed by the concerned Magistrate, no progress was shown in the investigation and that only on the false representation made by the earlier Inspector

that the action was dropped as "Undetected" and the final report was filed and notice was served on the petitioner, the earlier petition was closed and prayed that he has no other remedy except a direction from this Hon'ble Court to order further investigation.

3. The learned Public Prosecutor was directed to instruct the 3rd respondent to file a status report. The present Inspector Mr. George Miller has filed status report on 11.09.2017 in which at para 6, he had stated that the then Inspector of Police had taken sincere and effective steps to secure the accused persons who are all involved in this case, but all the efforts have ended in vain and that thereafter he had referred the case as "Undetected" and on 30.12.2008 closed the case in FIR in Crime No.81 of 2006 and he had further submitted that as and when the accused persons who are all involved in this case are secured, he will reopen the case and conduct further investigation of the case and lay final report against the accused persons before the competent court in accordance with law.

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4. This Court enquired who was the earlier Inspector who had made the false representation before this court and the learned Government Advocate submitted that one Mr. Manivannan is the

Inspector who had stated so and that the learned Government Advocate (Crl. Side) submitted that the final report was closed as "Undetected". However, the notice was not served on the petitioner/defacto complainant and submits that it is a mistake done by the Investigating Officer. This Court understand that due to the above submission made by the Inspector, the earlier petition had been closed and the petitioner had been made to run between pillar and post. It is really painful that victims of crime are being made to run between pillar and post for any action which they are statutorily entitled to.

5. The offence has been committed in a place very close to the 3rd respondent police station and the police station cannot close the matter as "Undetected". The status report also does not give the details of the steps taken by the I.O and the reasons for closing the case as undetected. This Court feels that the respondents are capable of investigating the cases and bring the cases to a logical end, however for the reasons best known to them they have sluggishly acted and have closed the case as "Undetected". The plight of the victim who has lost his valuables should be considered in a sympathetic and effective manner.

6. Though the prayer had been made to transfer the case to the file of the Additional Superintendent of Police, CBCID, this Court feels that this is not a case warranting investigation by CBCID and the officials under the 1st respondent are capable of doing the investigation. In view of the above facts, the 3rd respondent is directed to continue further investigation and file the final report at the earliest point of time preferably within a period of six months from the date of receipt of a copy of this order. The Deputy Commissioner of Police, C-1 Flower Bazaar Police Station is directed to monitor the investigation.

7. With this observation, this Criminal Original Petition stands closed.

20.09.2017

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Index : Yes/No

Internet: Yes/No

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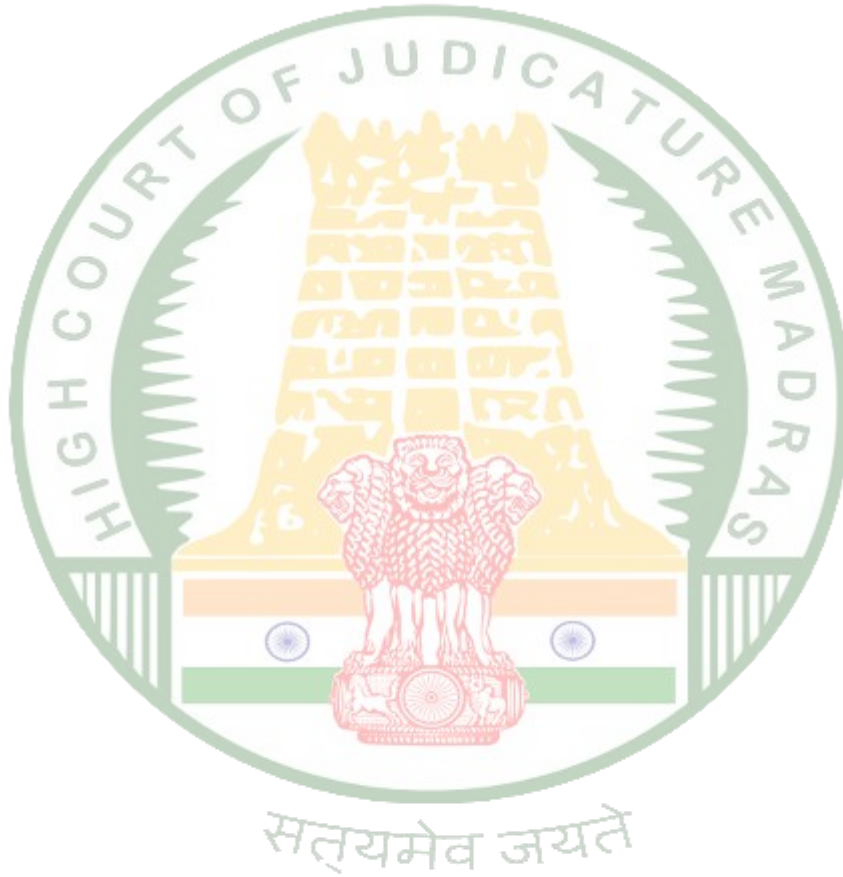
1.The Public Prosecutor,High Court, Madras.

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A.D.JAGADISH CHANDIRA, J

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