



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.10.2017

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL.O.P (MD) No.23450 of 2014

K.Mathan,
President,
Rotary Madurai of Mid Town Community Trust,
No.6, S.B.I. Colony, 2nd Stop Colony,
S.S.Colony, Madurai - 10. .. Petitioner

Vs.

State rep. through,
The Inspector of Police,
Central Crime Branch,
Madurai District.
(Crime No.81 of 2014) .. Respondent

PRAYER: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to (a) direct the respondent to secure the accused in Crime No.81 of 2014 on the file of Central Crime Branch, Madurai and (b) monitor the investigation in Crime No.81 of 2014 pending on the file of the Central Crime Branch, Madurai and to direct the respondent police to thoroughly investigate the crime and (c) file a Charge Sheet and complete the case within the time frame to be fixed by this Court.

For Petitioner	: Mr.T.S.R.Venkataramana
For Respondent	: Mr.K.S.Durai Pandiyan, Additional Public Prosecutor.
For Intervener	: Mr.S.Deenadhayalan

O R D E R

This Criminal Original petition is filed with the following prayer:-

a) to direct the respondent to secure the accused in Crime No.81 of 2014 on the file of Central Crime Branch, Madurai,

b) to monitor the investigation in Crime No.81 of 2014 pending on the file of the Central Crime Branch, Madurai and to direct the respondent police to thoroughly investigate the crime, and

c) to direct the respondent to file a Charge Sheet and complete the case within a time stipulated by this Court.

2. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent and the learned counsel appearing for the intervener.

3. The petitioner is the defacto complainant. It is the case of the petitioner that he is the elected Chairman of the Rotary Madurai Mid Town Community Trust which is in charge of "Madurai Moolakkarai, Keeradurai Cremation Ground", generally known as "Anjali". It is stated by the petitioner that with financial assistance of the Union Government, the Corporation of Madurai Modernized the "Anjali" Cremation Ground and gave it to the Rotary Club of Madurai Mid Town Community Trust for running and maintenance of the cremation ground. It is stated that at the time of registration of the Trust Deed, one Ramabarathi who was the President of the Club was asked to draft and register the Trust Deed to run the cremation ground. It is alleged that the said Ramabarathi drafted the Trust Deed in such a manner so that the management was left with the individual. It is further alleged that the said Ramabarathi swindled and misappropriated a sum of more than Rs.25,00,000/- from the Trust and that he removed everyone from the Trust including the petitioner, when they questioned him about the misappropriation. In relation to the dispute, it is also stated that a Suit in O.S.No.317 of 2014 on the file of the District Munsif Court, Madurai, is pending.

4. It is further alleged that the said Ramabarathi is a practising Advocate and despite the petitioner lodged a complaint about the criminal misappropriation and pointing out other misleads of the said Ramabarathi, the police was not ready and willing to register the complaint against him and that therefore, the petitioner was constrained to file a petition in CrI.O.P.(MD) No.12036 of 2014 to register the criminal complaint and that the same was ordered on 01.07.2014. Thus, the complaint was registered in Crime No.81 of 2014 against the said Ramabarathi and others.

5. It is stated that one of the proposed accused filed a petition in Cr.M.P.No.5478 of 2014 for Anticipatory Bail before the Principal District and Sessions Court, Madurai and that the same was dismissed at the intervention of the petitioner. Subsequently, the said Ramabarathi and other accused filed petitions in Cr.M.P. Nos.5742 and 5743 of 2014 for Anticipatory Bail. The petitioner states that the amount misappropriated by the said Ramabarathi is more than a crore of rupees and that the petitioner has also lodged a Second Information Report, regarding subsequent developments. Since swindling of the said Ramabarathi is multiplied day by day, the petitioner states that he is constrained to file the above Criminal Original petition for the



6. The said Ramabarathi who has filed a petition to permit him to intervene and who has now been permitted to intervene in the above Criminal Original petition, has produced a typed set containing several documents and submitted that the complaint is motivated with an ulterior purpose and that there is no *bona fides* in the complaint. It is only because there is some dispute with regard to the management of the Trust and the petitioner and few others were removed from the Trust, a false complaint was lodged by the petitioner and that there is neither truth nor merits in the complaint. The respondent has filed a Status Report on 28.04.2015 and on 22.10.2017. In the Status Report, the respondent *inter alia* referred to the manner in which the investigation was conducted by the respondent all these years. Sum and substance, it is revealed in the Status Report that the petitioner has not produced any basic documents to substantiate the allegations regarding the misappropriation to the tune of Rs.25,00,000/-. Since the allegations levelled by the petitioner and the nature of defence raised by the accused relates to accounts, it is stated that without documentary evidence, it is not possible for making the intervener responsible for misappropriation. Finally, it was prayed by the respondent that sufficient time should be given for filing a final report as the investigating agency wants to access several documents before filing final report.

7. Learned counsel for the petitioner submitted that the respondent should be directed to secure the accused, namely, the intervener in Crime No.81 of 2014 from the file of the respondent.

8. This Court does not see any compelling circumstances to direct the respondent to arrest the intervener. Since the investigation is under progress and this Court is not able to find any reason to doubt the fairness in which the enquiry was conducted in this case, the prayer to direct the respondent to arrest the accused in Crime No.81 of 2014 cannot be entertained. Similarly, it is stated by the respondent that the petitioner has not furnished the important documents which are required for proving the charges against the respondent. Despite non co-operation from the petitioner, the respondent has stated that further investigation was done by the respondent. In such circumstances, the prayer to monitor the investigation in Crime No.81 of 2014 pending on the file of the first respondent and to direct the respondent police to thoroughly investigate the crime need not be granted.

9. This Court is not inclined to go into the factual issues, as this may embarrass anyone of the parties and this Court at this stage is not able to consider the entire evidence available in this case. Having regard to the nature of the complaint, the documents filed by the intervener and the contentions raised by



the counsels appearing for the petitioner and the respondent, this Court is inclined to pass the following direction:-

"The respondent is directed to complete the investigation and to file final report in Crime No.81 of 2014 within a period of six months from the date of receipt of a copy of this order."

10. With the above direction, the Criminal Original petition is disposed of.

Sd/-

Assistant Registrar (CS-III)

/True copy/

Sub Assistant Registrar

To

1.The Inspector of Police, Central Crime Branch,
Madurai District.

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

CRL.O.P. (MD) .No.23450 of 2014
26.10.2017

KK/MR/SAR 2/04.01.2018/ 4P- 3C/