



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.10.2017

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THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL.O.P(MD)No.10622 of 2017

V.Amaravathi

.. Petitioner

Vs.

1. The Superintendent of Police,
Karur District.

2. The Inspector of Police,
Karur Town Police Station,
Karur.

3. The Inspector of Police,
C.B.C.I.D., Karur.

.. Respondents

PRAYER: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to transfer the investigation in Crime No.922 of 2013 from the file of the second respondent police to the third respondent with a direction to the third respondent to complete the investigation within a time stipulated by this Court.

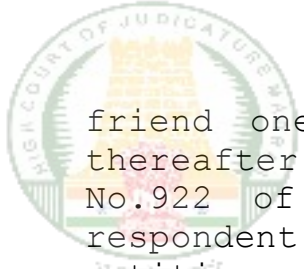
For Petitioner	: Mr.P.Dhanasekaran
For Respondents	: Mr.K.S.Durai Pandiyan, Additional Public Prosecutor.

O R D E R

This Criminal Original petition is filed for transferring the investigation in Crime No.922 of 2013 from the file of the second respondent police to the third respondent and for a direction to the third respondent to complete the investigation within a time stipulated by this Court.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

3. The petitioner states that she has three sons and all of them are living separately except her last son, by name, one Ramasamy. It is further stated by the petitioner that her son who was living with her and doing private money lending business was found missing from 21.10.2013. It is also stated that the petitioner's son who informed her that he was going to meet his

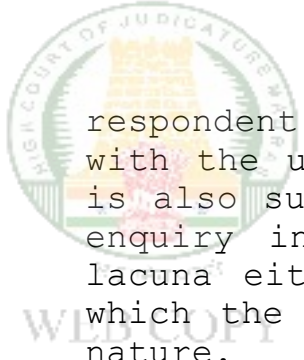


friend one driver Bharathi, at Karur, never returned to home thereafter. Though a case was registered as man missing in Crime No.922 of 2013 on 30.10.2013, it is stated that the second respondent has not taken any effective steps to trace the petitioner's son and did not take any action against the suspected persons. Though the petitioner filed a petition in H.C.P.(MD)No.43 of 2014 before this Court, she admits that the same was dismissed, as there was no representation and that her effort to subsequently restore the said petition also did not yield any result. It is in these circumstances, the petitioner has come forward with this petition for transfer of investigation stating that the second respondent started abusing her whenever she wanted to know the stage of investigation and about further progress in the investigation.

4. The second respondent has filed a Status Report pointing out the manner in which the investigation was conducted. It is stated by the second respondent that after enquiring the petitioner and others and getting statements from them under Section 161(3) of Cr.P.C, the respondent police has taken all necessary steps. It is stated that printed pamphlets containing photographs and details of missing person was circulated in and around the District and to all the police stations, apart from sending the same to the District Crime Record Bureau. It is further stated that the respondent police has also sent a requisition to the local cable T.V. Operators and requested them to telecast about the missing person in the local T.V.Channels. The respondent police has also obtained call details of Mobile phone used by the petitioner's son through the Mobile service provider, even though the Mobile phone was switched off on the same day, when the petitioner's son was missing.

5. It is further stated by the second respondent that the police have also collected the case particulars relating to every unknown bodies and the photograph of the petitioner's son is compared with the unknown bodies. The Inspector of Police/second respondent herein has stated that a special team was formed to visit various places to enquire about the missing person. Based on the information of the special team, the police also went to different parts of the State. It is also stated that the police have also circulated the pamphlets in few districts around Thirupur District. It is stated that the Inspector of Police collected particulars of 223 numbers of unidentified bodies from the District Crime Record Bureau and compared with the photograph of the missing person. The respondent police has also stated that the police persons were deputed on special duty to visit several places including various Central Prisons and Sub Jails.

<https://hcservices.courts.gov.in/hcservices/> 6. It is also stated by the second respondent that he got information about one unidentified body where a case was registered in Crime 29 of 2014. It is stated that the second



respondent police compared the photograph of the missing person with the unidentified body and found that they do not match. It is also submitted that the respondent police have undertaken this enquiry in a sensitive way and that there is no lethargic or lacuna either in the mode of investigation or in the manner in which the respondents are expected to enquire in a case of this nature.

7. Learned counsel for the petitioner relied upon a Judgment of the Hon'ble Division Bench of this Court in the case of Barakkath Nisha Vs. State represented by the Commissioner of Police, Madurai and others, in H.C.P.(MD) No.1164 of 2016, dated 06.04.2017. The Hon'ble Division Bench of this Court directed the respondent police to place the entire papers relating to that case before the C.B.C.I.D., and to direct the respondent police to nominate an efficient officer of C.B.C.I.D., as investigation agency. The learned counsel for the petitioner also relied upon yet another Judgment of the Hon'ble Division Bench of this Court in the case of K.Mahapriya Vs. The Superintendent of Police, Theni District and others, in H.C.P.(MD) No.1059 of 2017, dated 24.07.2017, wherein, the Hon'ble Division Bench of this Court has held as follows:-

"5. There is a complaint against the detenu and admittedly, the detenu has not been traced till now. The status reports also indicate that the detenu attended the work on 02.02.2016. Even, according to the son of the fifth respondent, the alleged occurrence in Crime No.131 of 2016 has taken place on 01.02.2016. We do not find that there is substantial progress in the investigation. In such view of the matter, we are of the view that investigation has to be transferred to C.B.C.I.D., Crime Branch, Theni District."

8. The learned counsel for the petitioner also relied upon a Judgment of the Hon'ble Supreme Court in the case of Hasanbhai Valibhai Qureshi Vs. State of Gujarat and others, in Appeal (Crl.) 421 of 2004, dated 05.04.2004. The Hon'ble Supreme Court in the above case has observed that the hands of the investigating agency or the Court should not be tied down on the ground that further investigation may delay the trial, as the ultimate object is to arrive at the truth.

9. The learned counsel for the petitioner, except expressing the sentiments in this case, is not able to point out any legal ground for transfer of investigation. This Court and the Hon'ble Supreme Court has repeatedly held that the Court is not justified to interfere with the investigation or to transfer the investigation to another agency in every case where there is delay. In this case absolutely there is no allegations of mala fide as against the investigating agency.



10. Going by the records, the investigation is being conducted by the investigating officers in a proper manner and absolutely there is no lacuna or delay on the part of the second respondent. Hence, this Court is not in a position to conclude that the transfer of investigation in this case is essential to ensure fairness or promptness. Since the Status Report filed by the second respondent demonstrates that the second respondent has done his best, this Court does not find any reason either to interfere with the investigation or to transfer the investigation as prayed for.

11. Having regard to the facts and circumstances of this case, the Criminal Original petition has no merits and that therefore, the same is dismissed. However if there is no further progress, it is open to the petitioner to approach this Court after six months.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Superintendent of Police,
Karur District.
2. The Inspector of Police,
Karur Town Police Station,
Karur.
3. The Inspector of Police,
C.B.C.I.D., Karur.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

ORDER MADE IN
CRL.O.P. (MD) .No.10622 of 2017
27.10.2017

PMU

JM/MR KKR/SAR 1/15.12.2017/4P/5C