



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.12.2017

CORAM

THE HON'BLE MR.JUSTICE **S.S.SUNDAR**

Cr1.O.P.(MD).No.11315 of 2017

and

Cr1.M.P(MD).No.7767 of 2017

Ponnusamy

... Petitioner/ Defacto complainant

-Vs-

1.The Superintendent of Police,
Karur District,
Karur.

2.The Deputy Superintendent of Police,
Aravakuruchi Range,
Karur District.

3.The Inspector of Police,
K.Paramathi Police Station,
Karur District.
Cr.No.95 of 2017

... Respondents

4.The Special Sub-Inspector of Police,
K.Paramathi Police Station,
Karur District.

... Respondent/ Complainant

Prayer: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to direct the first respondent to appoint a competent Police Officer in the rank of Deputy Superintendent of Police to conduct the investigation of the case in Crime No.95 of 2017 pending on the file of the third respondent and to file a Final Report within the time stipulated by this Court.

For Petitioner : Mr.M.Saravanan

For Respondents : Mr.K.S.Durai Pandian
Additional Public Prosecutor

**ORDER**

This petition has been filed seeking to appoint a competent Police Officer in the rank of Deputy Superintendent of Police to conduct investigation of the case in Crime No.95 of 2017, pending on the file of the third respondent and to file a Final Report within the time to be stipulated by this Court.

2.The learned counsel for the petitioner submitted that the petitioner is the owner of the tractor bearing registration No.TN-47-AV-8521 under hire purchase agreement from HDFC Bank, Trichy Branch and the said tractor was stolen by some unknown persons, for which, the petitioner has preferred a complaint before the third respondent on 08.01.2017. It is further submitted that as the third respondent did not take any steps, the petitioner has filed a petition in W.P(MD).No.1892 of 2017, for issuance of a writ of mandamus, directing the first and second respondents to initiate necessary action against the third respondent therein and during pendency of the said writ petition, a complaint was registered in Crime No.95 of 2017 under Section 379 of IPC. It is further submitted that the petitioner came to know about the identity of the persons who have stolen the tractor viz., an Advocate, attached to the Bar Association, Karur and also the Vice President of the Bar Association of Karur by name T.Dhanasekar and even thereafter, the fourth respondent has not obtained statement under Section 161 Cr.P.C., from the petitioner and the third respondent, who is the Investigating Officer has also failed to examine the persons, who are acquainted with the facts and circumstances of the case. It is stated that the fourth respondent, who is fully aware of the fact that the accused is an Advocate, is making attempts to conceal his name in the First Information Report for the reasons best known to him.

3.The learned counsel further submitted that the respondents 3 and 4 have deliberately acted in favour of the accused and therefore, the petitioner will not get any justice, if the investigation is allowed to be continued on the file of the respondents 3 and 4. Hence, the petitioner has come before this Court with the present petition for the relief stated *supra*.

4.The learned Additional Public Prosecutor appearing for the respondents produced a copy of the status report filed by the third respondent wherein the third respondent has stated that he has conducted preliminary investigation, from which, the respondent police came to know that the petitioner herein has borrowed some money from one D.Dhanasekar at the time of purchasing the tractor and thereafter, he has not settled the same to the said D.Dhanasekar as promised by him. It is further stated that the defacto complainant himself has handed



over the tractor to the said individual as security for repayment of the amount borrowed by the petitioner from the proposed accused. It is further stated that the petitioner has given a false and baseless complaint as against the individual and after completing investigation, the respondent police shall final report as early as possible.

5. Admittedly, in the status report filed by the third respondent, it is not revealed about the nature of investigation and enquiry conducted by the third respondent. He has not disclosed about the statements obtained from any individual or independent witnesses.

6. This Court is of the view that the status report has been filed on the basis of the version given by the proposed accused in response to the complaint as against him. The status report does not reveal any material to show that the petitioner has borrowed any money from the proposed accused and that he has agreed to take away the tractor by the proposed accused. Hence, this Court is not inclined to accept the status report filed by the third respondent.

7. In such circumstances, this Court is inclined to transfer the investigation from the third respondent to any other competent officer so as to ensure fair investigation. Accordingly, this petition is allowed and the first respondent is directed to appoint any other competent officer and transfer the investigation from the third respondent to the said officer, who shall investigate the case under the supervision of Deputy Superintendent of Police and file a final report within a period of four months from the date of receipt of a copy of this order. Consequently, CrI.M.P(MD)No.7767 of 2017 is closed.

Sd/-

Assistant Registrar(CSII)

/True Copy/

Sub Assistant Registrar

rmk

To

1. The Superintendent of Police,
Karur District.

2. The Deputy Superintendent of Police,
Aravakuruchi Range,
Karur District.



3.The Inspector of Police,
K.Paramathi Police Station,
Karur District.
Cr.No.95 of 2017

WEB COPY

4.The Special Sub-Inspector of Police,
K.Paramathi Police Station,
Karur District.

+1 CC TO Mr. M.SARAVANAN , Advocate, Sr.No.91194

JAM/04/01/2018/PM-PN/ SAR 4 4P-6C

Cr1.O.P.(MD).No.11315 of 2017
and
Cr1.M.P(MD).No.7767 of 2017

05.12.2017