



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.11.2017

CORAM

WEB COPY

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

CrI.O.P.(MD) No. 15695 of 2017

Arivannal

...Petitioner

-Vs-

1.The Director General of Police,
Dr.radhakrishnan salai,
Mylapore, Chennai.

2.The Commissioner of Police,
Trichy city, Trichy District.

3.The Inspector of Police,
Cantonment Police Station,
Trichy City,
Trichy District.

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to direct the second respondent to transfer the investigation in Cr.No.1443 of 2017 from the 3rd respondent police to any other investigation agency under control of 2nd respondent.

For Petitioner :Mr.D.Selvaraj

For R1 :Mr.A.Ramar

Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to direct the second respondent to transfer the investigation in Cr.No.1443 of 2017 from the third respondent police to any other investigation agency under the control of the second respondent.

2.The petitioner states that he is the Pastor at T.E.L.C. Church, Gandhi Market, Trichy. Earlier, a complaint was lodged by the petitioner, before the third respondent, as against two individuals, by name S.A.Arnold and Pari @ Pradeep Kumar, for restraining the petitioner from performing church prayer. Pursuant to this incident, on 15.09.2017, it is stated that the petitioner was followed by two individuals, who made an attempt to take his life. Though the complaint was registered in Cr.No.1443 of 2017, on the basis of the information furnished by the petitioner, the same was registered under Section 337 of IPC

contrary to the statement that was furnished by the petitioner. It is stated that the case was registered for the alleged offences under Section 337 IPC instead of 307 IPC wrongly and that no proper investigation was done. In such circumstances, the learned counsel for the petitioner states that there will not be any fair investigation, which was conducted by the third respondent.

3.The learned Additional Government Pleader on instructions submitted that the offence was altered into Sections 323, 337 and 506(i) IPC and therefore, the petitioner may not have any grievance. The learned Additional Public Prosecutor failed to explain the reason, why the complaint was registered for the offences under Section 337 IPC contrary to the specific information furnished by the de-facto complainant, namely, the petitioner. Even, the alteration of offence is not on the basis of any enquiry made by the third respondent but on the basis of the representation given by the petitioner.

4.Considering the fact that there was no proper explanation for the registration of the case for an offence, contrary to the information furnished to the third respondent, this Court is inclined to accept the grievance of the petitioner that there will not be a fair investigation, if the same is conducted by the third respondent. Hence, the Criminal Original Petition is allowed with the following direction:

"The second respondent is directed to transfer the investigation in Cr.No.1443 of 2017 from the third respondent police to any other investigation agency under the control of the second respondent and the investigation agency who is appointed by the second respondent shall file a final report within a period of six months from the date of receipt of a copy of this order."

Sd/-

Assistant Registrar(AD-I)

/True Copy/

Sub Assistant Registrar

To

- 1.The Director General of Police, Dr.radhakrishnan salai, Mylapore, Chennai.
 - 2.The Commissioner of Police, Trichy city, Trichy District.
 - 3.The Inspector of Police, Cantonment Police Station, Trichy City, Trichy District.
 - 4.The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.
- +1CC to Mr.D.Selvaraj, Advocate, SR.No. 87840

Cr1.O.P.(MD) No. 15695 of 2017

17.11.2017