



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.04.2017

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CORAM:

THE HONOURABLE MR. JUSTICE P.N. PRAKASH

CRL.O.P. (MD) No. 4237 of 2017

Alagendran @ Mani

: Petitioner/
Defacto complainant

-Vs-

1. The Superintendent of Police,
Office of the Superintendent of Police,
Dindigul District.

2. The Inspector of Police,
District Crime Branch,
Dindigul District.
(Crime No.14 of 2016)

: Respondents

PRAYER: Petition is filed under Section 482 of the Criminal Procedure Code to direct the respondent No.2 to order change of investigation in the matter relating to the Crime No.14 of 2016 on the file of the second respondent and entrust the same to any other competent authority for investigation of the case and file a final report before the appropriate jurisdictional Magistrate within the stipulated time by this Court.

For Petitioner : Mr.J.Lawrance
For Respondents : Mr.K.Anbarasan
Government Advocate (Crl.side)

ORDER

On the complaint lodged by the petitioner, the District Crime Branch, Dindigul District registered a case in Cr.No.14 of 2016 on 17.06.2016 against seven persons including Dr.Ponnar of Government Primary Hospital, Kovilur (Accused No.4) and the Sub Registrar, Gujiliyamparai Sub-Registrar Office, Vedasanthur (Accused No.5). During the course of investigation, the police came to the conclusion that the petitioner/defacto complainant had not given sufficient materials to charge sheet Dr.Ponnar and the Sub



Registrar and therefore, the police sent a communication dated 24.03.2017 to that effect to the petitioner/defacto complainant. Under such circumstances, the petitioner/defacto complainant is before this Court for transfer of investigation on the ground that the investigation is perfunctory.

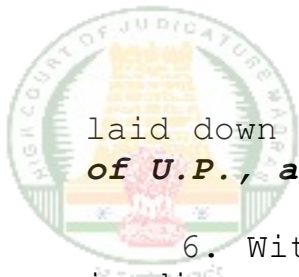
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2. Today when the matter was taken up for hearing, Mr.S.Pitchai Mohaideen, Special Sub-Inspector of Police, Dindigul is present. On instructions, the learned Government Advocate (Crl.Side) submitted that the investigation in Cr.No.14 of 2016 has been completed and the charge sheet has been filed before the Special Court for Anti Land Grabbing cases, Madurai on 17.11.2016, but the same has not yet been taken on file, in view of the stay granted by the Honourable Supreme Court staying all the proceedings that are pending before the Special Magistrates for Anti Land Grabbing cases, as the constitutional validity of the said Court is under challenge before the Honourable Supreme Court.

3. The learned Counsel appearing for the petitioner/defacto complainant submitted that the petitioner/defacto complainant had submitted enough materials against Dr.Ponnar and the Sub Registrar, which had been ignored by the respondent police.

4. This Court gave to anxious consideration to the rival submissions made by both sides.

5. The fact remains that the investigation has been completed and the charge sheet has been filed on 17.11.2016 against five persons excluding Dr.Ponnar and the Sub Registrar. In this petition, Dr.Ponnar and the Sub Registrar have not been arrayed as respondents and therefore, no order prejudicial to their interest can be passed by this Court without hearing them. That apart, when a person named in the F.I.R. is deleted in the charge sheet, the defacto complainant is at liberty to file protest application before the concerned Magistrate. Since there is a stay of all further proceedings before the Special Magistrate for Anti Land Grabbing cases, this Court is of the view that it will be in the interest of justice for the accused and the defacto complainant, if the case is transferred to the regular jurisdictional Magistrate, viz., the learned Judicial Magistrate No.II, Dindigul. Therefore, this Court directs the Special Magistrate for Anti Land Grabbing cases, Madurai to transfer the entire records of Anti Land Grabbing Cell, Dindigul in Cr.No.14 of 2016 to the Court of the learned Judicial Magistrate No.II, Dindigul within a period of four weeks from the date of receipt of a copy of this order. Thereafter liberty is given to the petitioner/defacto complainant to file protest application before the learned Judicial Magistrate No.II, Dindigul within a period of four weeks thereafter. On such protest application being filed, the learned Judicial Magistrate No.II, Dindigul shall deal with the same in accordance with law



laid down by the Honourable Supreme Court in **Vinay Tyagi Vs. State of U.P., and Others** reported in **Laws (All)-2010-8-369**.

6. With the above directions, this Criminal Original Petition is disposed of.

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Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

- 1.The Special Magistrate for Anti Land Grabbing cases,
Madurai.
2. The Judicial Magistrate No.II, Dindigul.
- 3.The Superintendent of Police,
Office of the Superintendent of Police,
Dindigul District.
- 4.The Inspector of Police,
District Crime Branch,
Dindigul District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.J.Lawrance, Advocate Sr.No.51971

SSL/DAS

AE/SKN/RSK/17.04.2017/3P/7C

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