



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.04.2017

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THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.O.P.(MD)No.4364 of 2017

N.Pappathi : Petitioner/Defacto Complainant
Vs.

1.The State of Rep.by
The Superintendent of Police,
Karur District,
Karur.

2.The Inspector of Police,
District Crime Branch,
Karur District.
(In Crime No.12 of 2012).

3.The Inspector of Police,
CBCID, Karur District. : Respondents/Complainants

Prayer:Criminal Original Petition is filed under Section 482 of Cr.P.C., praying to set aside the closure report filed by the second respondent in Crime No.12 of 2012 and further, to order change of investigation in Crime No.12 of 2012 from the file of the second respondent and entrust the same to the third respondent for investigation of the case by a competent officer and to file a final report before the appropriate jurisdictional Magistrate, within the time stipulated by this Court.

For Petitioner : Mr.A.Ramesh,
Senior Counsel,
For Mr.N.Anandakumar

For Respondents : Mr.K.Anbarasan,
Government Advocate (Crl.side)

ORDER

On the private complaint filed by one Pappathi, the learned Judicial Magistrate No.1, Karur, directed the police to register a First Information Report under Section 156(3) of the Code of Criminal Procedure, pursuant to which, the second respondent police registered a case in Crime No.12 of 2012 on 22.08.2012, under Sections 420, 467, 471 and 506(i) of the Indian Penal Code against one Raviselvan. Since the investigation had not progressed

substantially since 2012, Pappathi is before this Court for transfer of investigation.

2. Heard Mr.A.Ramesh, learned Senior Counsel appearing for the petitioner and Mr.K.Anbarasan, learned Government Advocate (Criminal side) appearing for the respondents.

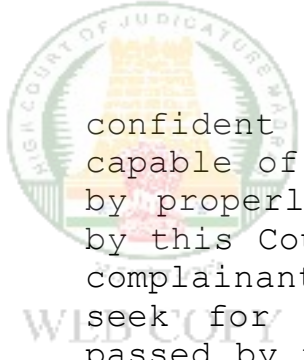
3. The learned Government Advocate (Criminal side) submitted that the investigation in Crime No.12 of 2012 has been completed and the case has been closed as mistake of fact and the closure report has also been filed before the learned Judicial Magistrate No.II, Karur, on 28.01.2017.

4. Rebutting the submission, Mr.A.Ramesh, learned Senior Counsel appearing for the petitioner submitted that a copy application was made before the learned Judicial Magistrate No.II, Karur, seeking a copy of the closure report, but the copy application has been returned on 01.02.2017 on the ground that no report has been filed in Crime No.12 of 2012. Mr.A.Ramesh, learned Senior Counsel submitted that the accused in this case, by name Raviselvan is not an ordinary person and in an earlier proceedings before this Court in CrI.O.P.(MD) Nos.6319 and 6680 of 2016, dated 21.04.2016, this Court had taken serious exception to the conduct of the said Raviselvan in the said case. Therefore, Mr.A.Ramesh, learned Senior Counsel submitted that Raviselvan is a wealth and influential person and he has managed to subvert the process of investigation. In support of this contention, Mr.A.Ramesh, learned Senior Counsel submitted that the crux of the allegations in the First Information Report is that Raviselvan had created a forged document, viz., a sale agreement on a stamp paper bearing No.17AA 888511, dated 16.04.2007. However, the information obtained under the Right to Information Act by Pappathi shows that the said stamp paper was issued by the Treasury only on 06.09.2007, which, by itself shows that the impugned sale agreement dated 16.04.2007 is a fabricated one.

5. Mr.A.Ramesh, learned Senior Counsel also placed reliance on the earlier order passed by this Court in CrI.OP.No.15756 of 2016, dated 10.08.2016, wherein, this Court had ordered transfer of investigation, despite the fact that the police in that case has closed the investigation.

6. This Court gave its anxious consideration to the rival submissions.

7. When a closure report is filed before the Jurisdictional Magistrate, the *defacto* complainant is entitled to file a protest application, based on which, the Magistrate can also order further investigation, as held by the Supreme Court in **Vinay Tyagi Vs. State of U.P and Others** reported in **Laws (All)-2010-8-369**. Though the allegations against Raviselvan are indeed very serious, especially, in the light of the fact that the stamp paper, on which the impugned agreement was prepared, was issued only in the month of September, 2007 by the Treasury, yet, the police have closed the investigation as mistake of fact. This Court does not want to say anything beyond this at this stage. This Court is



confident that the learned Judicial Magistrate No.II, Karur is capable of handling the protest application in accordance with law by properly appreciating the rival contentions. Any interdiction by this Court at this stage may cause prejudice to the case of the complainant also. It is always open for the *defacto* complainant to seek for transfer of investigation even after the orders are passed by the Magistrate, if strong grounds are made out, inasmuch as the inherent power of this Court under Section 482 of the Code of Criminal Procedure is always available to secure the ends of justice. A copy of the closure report has been furnished to Mr.A.Ramesh, learned Senior Counsel appearing for the petitioner across the bar.

8. In the result, this Criminal Original Petition is closed with liberty to the petitioner to file a protest application before the learned Judicial Magistrate No.II, Karur, within four weeks from the date of receipt of a copy of this order and on such protest application being filed, the same shall be dealt with by the learned Magistrate in accordance with the law laid down by the Supreme Court in ***Vinay Tyagi Vs. State of U.P and Others*** reported in ***Laws (All)-2010-8-369***.

SD/-

ASSISTANT REGISTRAR

/TRUE COPY/

SUB ASSISTANT REGISTRAR

To

- 1.The Superintendent of Police,
Karur District,
Karur.
- 2.The Inspector of Police,
District Crime Branch,
Karur District.
- 3.The Inspector of Police,
CBCID, Karur District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 5.The Judicial Magistrate NO.II, Karur
+1 CC TO MR.N.ANANDAKUMAR, ADVOCATE, SR NO.52393

SML/rmi

MAS/MR/SAR3:21.04.2017:3P-7C

Order made in
CRL.O.P. (MD) No.4364 of 2017

Dated:-

18.04.2017