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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reservation : 10.02.2017

Date of Delivery : 21.03.2017

CORAM

THE HON'BLE MR.JUSTICE G.CHOCKALINGAM

Crl.O.P.(MD)No.544 of 2016

Dr.A.R.Anbarasan

... Petitioner

-Vs-

1.The Superintendent of Police,
Office of the Superintendent of Police,
Thanjavur.

2.State represented by
The Inspector of Police,
Medical College Police Station, Thanjavur.

3.State represented by
Inspector of Police, South Town Police Station,
Thanjavur.

... Respondents

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to pass orders withdrawing the investigation now pending with the third respondent herein as directed by this Court in Crl.O.P(MD)No.5027 of 2015 dated 03.07.2015 in respect of the complaint dated 03.05.2014 and further transfer the investigation to CBCID Police, Thanjavur, expeditiously, investigate the case.

For Petitioners : Mr.S.Kasirajan for
Mr.R.Kaviyarasan

For Respondents : Mr.A.P.Balasubramani,
Government Advocate(Crl. Side)

O R D E R

This Criminal Original Petition has been filed by the petitioner to transfer the investigation now pending with the third respondent herein as directed by this Court in Crl.O.P(MD) No.5027 of 2015 dated 03.07.2015 in respect of the petitioner's complaint dated 03.05.2014, to the CBCID Police, Thanjavur and to investigate the case, as expeditiously as possible.



2. The learned counsel appearing for the petitioner would contend that the present case is pending for investigation without any progress even though the petitioner has produced all the documents before the second respondent police. Earlier, the petitioner filed CrI.O.P(MD)No.14209 of 2014 seeking direction to register a case based on the complaint given by the petitioner. Since there was no action on the part of the respondent police, once again the petitioner has filed CrI.O.P(MD)No.5027 of 2015. This Court vide order dated 03.07.2018 directed the first respondent to transfer the investigation in the complaint of the petitioner, dated 03.05.2014 to any other officer under his jurisdiction and the new Investigation Officer was directed to complete the investigation and file a final report within four months from the date of receipt of records relating to the complaint of the petitioner. But, till date the investigation was not completed. Hence, the petitioner has filed this Criminal Original Petition with the above said prayer.

3. The learned Government Advocate(Crl. Side) on instructions submitted that on the complaint given by the petitioner proper enquiry was conducted and the investigation is still pending. Hence, this petition filed by the petitioner seeking to transfer the investigation is not at all maintainable.

4. Heard the submissions made on both sides and perused the materials available on record.

5. Admittedly, the petitioner had earlier filed CrI.O.P (MD)No.14029 of 2014, wherein this Court vide order dated 24.11.2014, observed as follows:

"5.As per the judgement of Hon'ble Supreme Court in Lalitha Kumari vs. Govt. of U.P. & Others (2013 (4) Crimes 243 (SC), the respondent police, in respective cases, may conduct a preliminary enquiry which shall not extend beyond a period of one month from the date of receipt of a copy of this order. In conducting the preliminary enquiry, they shall put the concerned parties upon notice. At the end thereof, if any cognizable offence is made out, they shall duly register a case. In the event of effecting closure of the case upon conducting a petition enquiry, a copy of the closure report shall be forwarded to the complainants."

6. In this case, this Court already ordered to complete the investigation as stated in the above said order. Further, already an order was passed in CrI.O.P(MD)No.5027 of 2015 dated 03.07.2015, directing the Superintendent of Police, Thanjavur to monitor the investigation and to complete the investigation and file a final report within a period of four months. But, the investigation is not completed within the



stipulated time. Hence, the petitioner has to proceed further according to law. Without doing so, the present petition filed by the petitioner seeking transfer of investigation is not at all maintainable.

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7. In the result, this Criminal Original Petition is dismissed.

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub-Assistant Registrar

To:

- 1.The Superintendent of Police,
Office of the Superintendent of Police,
Thanjavur.
- 2.The Inspector of Police,
Medical College Police Station,
Thanjavur.
- 3.The Inspector of Police,
South Town Police Station, Thanjavur.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+One cc to Mr.B.Jameel Arasu, Advocate, SR.No.16750

PM
RL/6C/3P/MR/SAR2/4.4.2017

Cr1.O.P. (MD) No.544 of 2016
21.03.2017