



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.06.2017

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THE HON'BLE MR.JUSTICE P.N.PRAKASH

**W.P. (MD) No.2334 of 2015 and
M.P. (MD) Nos.2 & 3 of 2015**

1. Mangayarkarasi
2. V.Sudhakar ... Petitioners

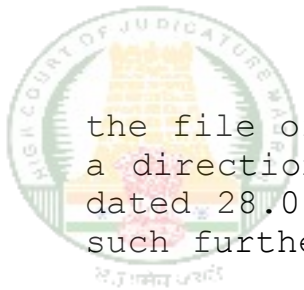
-vs-

1. The Government of Tamilnadu,
Rep. by its Secretary,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George,
Chennai-9.
2. The Deputy Inspector General of Police,
South Zone, Madurai.
3. The Deputy Superintendent of Police,
Kumbakonam.
4. The Chairman,
Human Rights Commission,
Tiruvarangam,
Raja Annamalaipuram,
Chennai -600 028.
5. The Inspector of Police (L&O),
Kumbakonam East Police Station,
Kumbakonam.
6. Raj Mohan
7. Aravamudan
8. Kudanthai Arasan @ Rajan
9. Kavitha Sridhar
10. The Central Bureau of Investigation,
by Superintendent of Police,
No.4, A Wing, Rajaji Bhavan 3rd Floor,
3rd Avenue, Besant Nagar,
Chennai-600 090.

... Respondents

(R4 has been given up)

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Mandamus, directing the 1st respondent to transfer the case in Cr.No.18 of 2015 now pending on



the file of the 5th respondent to the file of 10th respondent with a direction to the 10th respondent investigate into the complaint dated 28.01.2015 and to file final report as per the law and pass such further or other orders.

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For Petitioner : Mr.M.S.Suresh Kumar
For R1 to R3, R5 & R10 : Mr.T.S.Mohammed Mohideen,
Addl. Govt. Pleader
For R4 : Given Up
For R7 to R9 : Mr.M.Karunanithi
For R6 : No Appearance

O R D E R

This petition has been filed, seeking to direct the 1st respondent to transfer the case in Cr.No.18 of 2015 now pending on the file of the 5th respondent to the file of 10th respondent with a direction to the 10th respondent to investigate into the complaint dated 28.01.2015 and to file final report as per the law.

2. On 12.04.2017, this Court passed the following order:

"This petition has been filed, seeking to direct the 1st respondent to transfer the case in Cr.No.18 of 2015 now pending on the file of the 5th respondent to the file of the 10th respondent with a direction to the 10th respondent to investigate into the complaint dated 28.01.2015 and to file a final report as per the law.

2. It is the case of the petitioner that her dwelling house has been ransacked by a group of persons and demolished and pursuant to the complaint given by the petitioner, the respondent police registered a case in Crime No.18 of 2015 on 30.01.2015 under Sections 147 and 448 IPC against one Sekar and others. While so, the petitioner is before this Court for transfer of investigation.

3. Heard the learned Senior Counsel for the petitioners and the learned Additional Government Pleader appearing for the State. Mr.P.Amaldoss, Special Sub-Inspector of Police, Kumbakonam East Police Station is present.

4. On instructions, learned Additional Government Pleader submitted that the investigation in Crime No.18 of 2015 has been completed and a charge sheet has been filed against Sekar alone.

<https://hcservices.ecourts.gov.in/hcservices/> is the grievance of the petitioner that when Section 147 IPC has been invoked at the stage of FIR,



strangely, the Police have filed a final report only as against Sekar leaving out others, who were members of the unlawful assembly.

6. There seems to be sufficient force in the contention raised by the learned counsel for the petitioner and this Court smells rat in the investigation that has been conducted by the respondent police. Therefore, this Court is thoroughly not satisfied with the final report in Crime No.18 of 2015 and the manner of investigation that has been conducted in the case.

7. Therefore, this Court directs the Superintendent of Police, Thanjavur District to first conduct enquiry and if required, order a complete re-investigation of the case.

8. Since this Court has passed orders under Section 482 Cr.P.C., there is no need to obtain further permission under Section 173(8) of the Code from the concerned Trial Court and this Court is aware of the distinction between further investigation and re-investigation.

9. In the considered opinion of this Court, this case warrants re-investigation and not merely a superficial further investigation.

Call on 15.06.2017 for hearing."

3. It is seen that the Superintendent of Police, Thanjavur District, by order dated 07.06.2017 has directed the Inspector of Police, DCB, Thanjavur District to take up the investigation of the case in Kumbakonam East Police Station Crime No.18 of 2015 and conduct re-investigation of the above case and file a final report before the Court. Mrs.G.Mahalakshmi, Inspector of Police, DCB, Thanjavur District, who is present before this Court, has taken up the re-investigation of the case. Learned Additional Government Pleader assured this Court that if three months' time is granted to the newly appointed Investigating Officer, she will complete the investigation by conducting a thorough, fair and honest investigation.

4. Recording the same, this petition is closed with a direction to the Inspector of Police, DCB to thoroughly investigate the case in Crime No.18 of 2015 expeditiously and take action in accordance with law. Until a supplementary report is filed before the jurisdictional Court, the Trial in S.C.No.110 of 2016 will stand stayed. Thereafter, the trial can resume after receipt of the supplementary report.



5. With the above direction, this petition is closed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-II)

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/True copy/

Sub Assistant Registrar

To:

1. The Assistant Sessions Judge(Sub-Court),
Kumbakonam.
2. The Secretary,
Government of Tamilnadu,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George,Chennai-9.
3. The Deputy Inspector General of Police,
South Zone, Madurai.
4. The Deputy Superintendent of Police,
Kumbakonam.
5. The Chairman,
Human Rights Commission,
Tiruvarangam,Raja Annamalaipuram.
6. The Inspector of Police (L&O),
Kumbakonam East Police Station,
Kumbakonam.
7. The Central Burea of Investigation,
by Superintendent of Police,
No.4 A Wing Rajaji Bhavan 3rd Floor,
Chennai-600 090.
8. The Inspector of Police,
District Crime Branch,
Court Road, Thanjavur.

+2ccs to Mr.M.S.Suresh kumar, Advocate in SR.No.61910, 61691
+1 cc to Special Government Pleader in SR.No.61861

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AE/MR KKR/SAR3/06.07.2017/4P/12C