

IN THE HIGH COURT OF JUDICATURE AT MADRAS**Dated 27.11.2018****CORAM****THE HONOURABLE MR.JUSTICE B.PUGALENDHI****Crl. OP. No.15714 of 2010**

Raja @ Sowriappan

... Petitioner

Vs.

1. State represented by
The Inspector of Police,
Krishnagiri Town Police Station,
Krishnagiri.

2. The Superintendent of Police,
Krishnagiri District,
Krishnagiri.

... Respondents

Prayer: This petition is filed under Section 482 of the Criminal Procedure Code to transfer the investigation in Crime No.896 of 2008 on the file of the 1st respondent to the CBCID.

For Petitioner : Mr.Raja Mohan

For Respondents : Mr.T.Shanmugarajeswaran

Government Advocate (Criminal Side)

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ORDER

The complainant in Crime No.896 of 2008 on the file of Krishnagiri Town Police Station had filed the present petition to transfer the investigation in the said crime number to the CBCID Police. This petition was filed in the year 2010 and pending till date.

2. The nature of the complaint in Crime No.896 of 2008 is that in Krishnagiri Taluk Lorry Owners Association, the Manager and two other staffs have erased the accounts from the computer and misappropriated huge amount. The fraud was detected only during the audit and the president of the Association had lodged a complaint on 02.07.2008 before the 1st respondent police and the same was registered in Crime No.896 of 2008 for the offence punishable under Section 406 IPC.

3. According to the petitioner/complainant, the respondent police has not shown any progress in the investigation, the accused were not arrested and in an application filed by one of the accused, it was represented by the respondent police as if no proceedings is pending against the accused. The petitioner had sent representations to the 2nd respondent, the Superintendent of Police on 02.07.2009 and 28.01.2010 for a proper investigation, but even then, there was no progress. The petitioner filed an application under the Right to Information Act on 27.01.2009 for which, he was answered that the Inspector of Police who investigated the case in Crime No.896 of 2008 did not hand over the case diary in the station and the details of the case diary is also not available with the 1st respondent/ police station. Shocked over this reply, the

petitioner / complainant had come forward with this application for transfer of investigation to CBCID.

4. Today when the matter is taken up for hearing, a statutory report was filed by the present inspector of police, Krishnagiri Town Police Station that after registration of the case, the case in Crime No.896 of 2008 was entrusted with one Thiru.Eswaran, Inspector of Police for investigation. He examined the auditor and recorded his submissions and concluded the investigation that the accused 1 to 3 have submitted the accounts on a day today basis and the collection amounts were deposited in the petitioner's account properly and based on the accounts submitted, the petitioner had also conducted meeting with the accused and paid their salary as such no deletion of accounts from the computer by the accused. The accused had requested for increment but the petitioner had denied the same that it would be considered only after two years. Therefore, the accused have resigned the job and to take vengeance, this complaint is lodged against the petitioner.

5. The Inspector of police said to have filed the final report before the Court on 30.07.2008 and the RCs notice No.25/2008 was also served upon the petitioner. Two years after the date of RC's, this petition

is filed with false and frivolous allegation.

6. This Court by an order dated 20.02.2017 has called for a report from the learned Judicial Magistrate I, Krishnagiri on the RCs notice and the learned Judicial Magistrate submitted a report to this Court on 04.03.2017 stating that the Receiving Register for the final report and the RCS filing register were destroyed in their Court vide Government Gazette dated 21.01.2016. However, he would submit that the FIR relating to Crime No.896/2008 of Krishnagiri Town Police station is available in the Court and on a perusal of the said register, it is found that the FIR was not rounded off and the original FIR is also not available in their office.

7. The petitioner in the year 2010 had sought for an information under the RTI Act, wherein a reply was given from the office of the District Superintendent of Police, District Crime Branch to the petitioner that the Inspector of Police Mr.Eswaran had conducted the investigation in Crime No.896 of 2008 and he has not handed over the files in the office while he was transferred from that post. It was also informed that in the said reply that the files pertaining to Crime No.896 of 2008 was not available in the office. From the above communication, it could be seen that on February 2010, the case diary pertaining to crime No.896 of 2008 was not available

in the respondent Police Station. However, the status report has been filed by the present inspector of police, as if the then inspector of police, Mr.Eswaran had examined the auditor one Mr.Radhakrishnan and had also concluded the investigation as a mistake of fact as early as on 30.07.2008.

8. Though this petition itself is filed based on the reply given by the Deputy Superintendent of Police about the non-availability of the files under RTI Act, there is no reference in about the same in the status report and there is no explanation as to how this present inspector of police has come to know about the referred charge sheet.

9. From the report of the learned Judicial Magistrate I, Krishnagiri, it appears the original FIR was not rounded off and the original FIR is also not available on their files. According to the learned Magistrate, the RCs register was also destroyed and it could not be ascertained as to whether any such RCs is filed before the learned Magistrate in the year 2008.

10. The complaint is of serious in nature. The fact remains that the case diary file pertaining to Crime No.896 of 2008 was not available as on February 2010. There are no records available in the Court to ascertain

as to whether any such RCs notice has been filed before the Court. As per the report of the learned Magistrate, the FIR was not rounded off and the original FIR copy is also not available in this case. The complaint of this nature ought to have been investigated in a fair and impartial manner. The complaint must have a logical conclusion.

11. Under these circumstances, this Court allow this Criminal original petition with the following directions :-

(a) The Superintendent of Police is directed to entrust the investigation in Crime No.896 of 2008 of Krishnagiri Town Police station to the Inspector of Police, Cyber Crime or to some other Inspector of Police of eminence and conclude the investigation within a period of three months from the date of receipt of copy of this order.

(b) The Superintendent of Police is further directed to monitor the investigation.

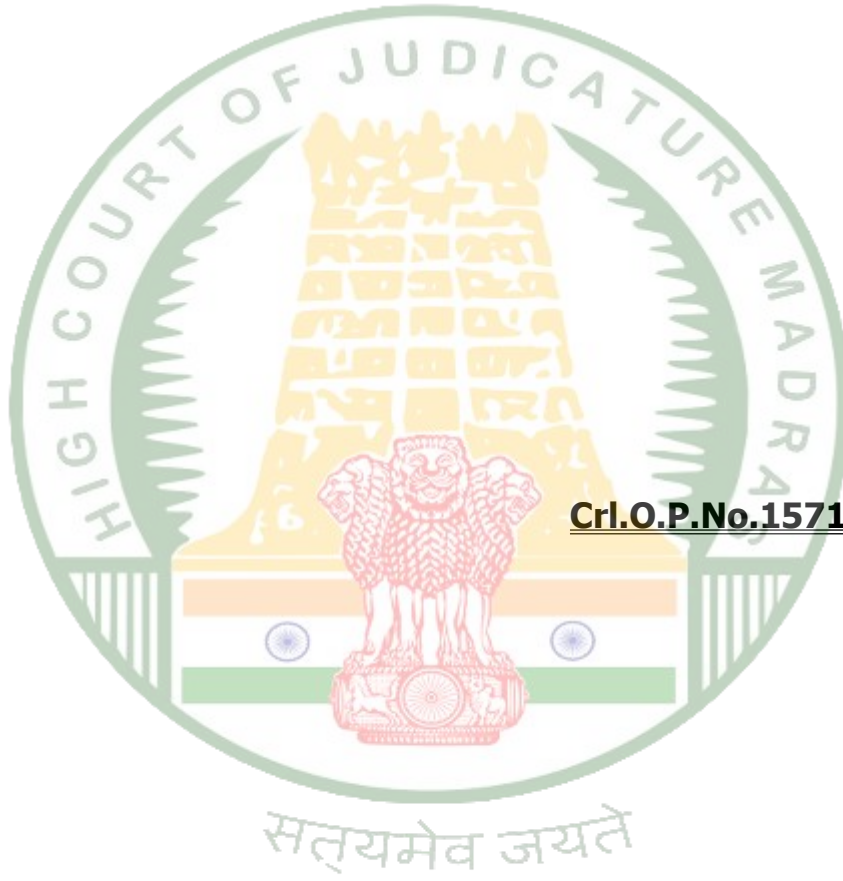
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