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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.05.2018

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. No.10647 of 2018

G.S.Mani

.. Petitioner

.. Vs ..

- 1.State of Tamil Nadu,
rep.by its Secretary,
Home Department,
Secretariat, St.George Fort,
Chennai-9.
- 2.Central Bureau of Investigation,
Shastri Bhavan,
Chennai-6.
- 3.Union of India,
rep.by the Secretary,
Ministry of Home & Affairs,
North Block, New Delhi.
- 4.The State
Rep.by the Inspector of Police,
Aruppukottai Police Station,
Aruppukottai, Tamil Nadu.
- 5.The Superintendent of Police,
CBCID, Ramanathapuram,
Tamilnadu.
- 6.Nirmaladevi,
Asst.Professor of Maths,
Devaraju Arts College,
Aruppukottai.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India praying for issuance of a Writ of Mandamus directing the 1st respondent to transfer the investigation to the 2nd respondent CBI for further investigation in view of the serious



nature of offences, against the society, i.e., Prof.Nirmala Devi by abetting the female college students to fulfill the sexual desires of highly influential persons and this Court may monitor the CBI investigation and also direct the respondent CBI to file a status report in a sealed cover before this Court within a time frame. ^{2nd}

For Petitioner : Mr.T.R.Sundaram
For R1,R2,R4 & R5 : Mr.T.N.Rajagopalan
Government Pleader
For R3 : Mr.N.Ramesh, Standing Counsel

O R D E R

[Order of the Court was made by R.SUBRAMANIAN,J.]

The prayer in the writ petition is to transfer the investigation regarding the complaints of enticement of girl students by a Professor in a College to do certain favours to people at high places to the Central Bureau of Investigation.

2.Heard the learned counsel for the petitioner, Mr.T.N.Rajagopalan, learned Government Pleader who takes notice for the respondents 1, 2, 4 & 5 and Mr.N.Ramesh, learned Standing Counsel who takes notice for the 3rd respondent.

3. The learned Government Pleader would submit that the writ petition has been filed seeking a probe by a special investigation team in W.P.No.11333 of 2018, in which notice has been ordered, and the same has been posted on 04.06.2018. The law relating to transfer of investigation to CBI, is no longer res integra. The three Bench Judge of the Hon'ble Supreme Court in the case of K.V.Rajendran .Vs. Superintendent of Police, CBCID, South Zone, Chennai and Others reported in [2013] 12 SCC 480, after considering the earlier judgments on this question, had quoted from Sakiri Vasu .Vs. State of U.P. as follows :

"31.....this Court or the High Court has power under Article 136 or Article 226 to order investigation by CBI. That, however, should be done only in some rare and exceptional case, otherwise, CBI would be flooded with a large number of cases and would find it impossible to properly investigate all of them."

(emphasis supplied)

The Court further went on to conclude as follows :

17.In view of the above, the law can be summarised to the effect that the Court exercise its constitutional powers for transferring an



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investigation from the State investigating agency to any other independent investigating agency like CBI only in rare and exceptional cases. Such as where high officials of State authorities are involved, or the accusation itself is against the top officials of the investigating agency thereby allowing them to influence the investigation, and further that it is so necessary to do justice and to instil confidence in the investigation or where the investigation is prima facie found to be tainted/biased."

4. Admittedly, the investigation in the case on hand is at very preliminary stage. The same is being carried out by the CBCID. Therefore, we see no reason to transfer the investigation to the Central Bureau of Investigation. The writ petition fails and it is dismissed. No costs.

Sd/-
Assistant Registrar (V.O)

//True Copy//

Sub Assistant Registrar

kp/pri
To

1. State of Tamil Nadu,
rep. by its Secretary,
Home Department,
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Chennai-9.
2. Central Bureau of Investigation,
Shastri Bhavan,
Chennai-6.
3. Union of India,
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Rep. by the Inspector of Police,
Aruppukottai Police Station,
Aruppukottai, Tamil Nadu.



5.The Superintendent of Police,
CBCID, Ramanathapuram,
Tamilnadu.

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+2cc to Mr.T.R.Sundaram, Advocate, S.R.No.33632
+1cc to the Government Pleader, S.R.No.33810

W.P. No.10647 of 2018

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