

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.11.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Criminal Original Petition No.22080 OF 2018

K.Balakrishnan : Petitioner / Accused

versus

1. State of Tamil Nadu
rep. By its Secretary to Government,
Home Department,
Secretariat, Chennai 9.

2.The Director General of Police,
Kamarajar Salai,
Mylapore Chennai 4.

3.The Director General of Police,
Vigilance and Anti Corruption Department,
No.293, MKN Road,
Alandur, Chennai 16.

4.The Deputy Superintendent of Police,
Vigilance and Anti Corruption Department,
Namakkal (Cr.No.6/AC/2018)

5. The Addl. Director General of Police,
Crime Branch CID,
Egmore, Chennai 8.

: Respondents / Respondents

Prayer: Petition filed under section 482 Cr.P.C praying to direct the respondents 1 and 2 to withdraw the investigation in Cr.No.6/AC/2018 from the 4th respondent and transfer the same to the 5th respondent for fair and impartial investigation.

For petitioner : Mr.N.Manoharan
for Mr.N.Ponraj

For respondent : Mr.C.Emalias,
Additional Advocate General,
Assisted by Mr.R.Ravichandran,
Government Advocate

O R D E R

The petitioner is arrayed as an accused in Crime No.6/AC/2016 for the offence under Section 7 of the Prevention of Corruption Act, 1988. The petitioner approached this court for transfer of the case to CBI, since he felt that investigation was not properly done by the State police. The said petition was allowed by this Court directing the Director, Vigilance and Anti Corruption Department to appoint a police officer not below the rank of Superintendent of Police to take up investigation and proceed further.

2. Aggrieved by the said order, the petitioner filed Special Leave Petition before the Hon'ble Apex Court. The Hon'ble Apex Court granted permission to the petitioner to withdraw the Special Leave Petition and gave liberty to the petitioner to apply for modification of the order, to handover investigation to some other Department in the State of Tamil Nadu. As per the liberty granted by the Hon'ble Apex Court, the present petition has been filed.

3. The learned counsel for the petitioner Thiru.N.Manoharan, contended that in the police Department, there are other wings for conducting investigation. In the present case, the Deputy Superintendent of Police, Namakkal, is an interested person and there are several call details between the petitioner and the relative of the DSP, prior to the alleged occurrence. Hence, if the investigation with the assistance of the DSP, Namakkal, there may not be fair investigation. Accordingly, he prayed for transfer of the investigation to either CBCID or any other branch.

4. The learned Additional Advocate General submitted that after the order of this Court dated 3.5.2018, the Director, Vigilance and Anti Corruption Department has passed order dated 10.11.2018. The relevant portion of the order reads thus :

"Hence, I hereby authorize Tmt.S.Lakshmi, IPS, Superintendent of Police, Western Range, to take up the investigation and proceed further in the case registered against Tr.K.Balakrishnan, Tahsildar, Taluk Office, Namakkal Taluk and District as directed by the Hon'ble High Court of Madras in its order dated 3.5.2018 in CrI.O.P.No.12065/2018 and CrI.M.P.No.6384/ 2018. She is instructed to comply with all directions of the Hon'ble High Court of Madras under intimation to the headquarters. She is further directed to

investigate this case without the assistance of the officials from Namakkal V&AC, detachment and complete the investigation at its earliest.

5. Accordingly, the entire investigation was handed over to Tmt.S.Lakshmi, I.P.S., and the officer has also assumed charge. She will carry out the investigation of the case and ensure that there is no tampering of the witnesses.

6. This Court makes it clear that Tmt.S.Lakshmi, I.P.S., has to investigate the matter without any assistance of the DSP, Nakammal.

7. The learned counsel for the petitioner submitted that the petitioner may be permitted to file all documents in his defence before the newly appointed Investigating Officer.

8. The learned Additional Advocate General fairly accepted the said request and stated that the petitioner could very well submit documents in his favour before the investigating officer.

9. In the result, the original petition is disposed of as no further order is required. However, liberty is granted to the petitioner to file documents and other materials before the Investigating Officer which are in his defence. Consequently, CrI.M.P.No.12159 of 2018 is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

tar

To

1. The Secretary to Government,
Home Department,
Secretariat, Chennai 9.

2.The Director General of Police,
Kamarajar Salai,
Mylapore Chennai 4.

3.The Director General of Police,
Vigilance and Anti Corruption Department,
No.293, MKN Road,
Alandur, Chennai 16.

4.The Deputy Superintendent of Police,
Vigilance and Anti Corruption Department,
Namakkal (Cr.No.6/AC/2018)

5. The Addl. Director General of Police,
Crime Branch CID,
Egmore, Chennai 8.

6. The Public Prosecutor,
High Court, Madras

Cr1.O.P.No.22080 OF 2018

RJI (CO)
SSM(11/12/2018)



WEB COPY