

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.08.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CrI.O.P.No.11059 of 2018

Thanalakshmi

..Petitioner

Vs

1.The Superintendent of Police
Gobichettipalayam.

2.The Inspector of Police,
Nambiyur Taluk
Erode District.

..Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. to issue suitable direction, to transfer the investigation in Cr.No.288 of 2013 dated 07.10.2013 on the file of the second respondent police to any other competent investigation agency, more particularly, the Inspector of Police, CBCID, Coimbatore.

For Petitioner : Mr.S.Senthilvel

For Respondents : Ms.M.Prabhavathi

Additional Public Prosecutor

O R D E R

This petition has been filed to issue suitable direction, to transfer the investigation in Cr.No.288 of 2013 on the file of the second respondent police to any other competent investigation agency, more particularly, the Inspector of Police, CBCID, Coimbatore.

2. The petitioner's husband Murugan was a prosperous farmer. Murugan had taken loans with the Tamil Nadu Mercantile Bank, Coimbatore and for repayment of the loans, he sold some of his properties and raised Rs.2.50 crores. The couple were issueless and they were being taken care of by the petitioner's sister and her husband Mani @ Marimuthu. Mani is into active politics and at the relevant point of time, he was the Secretary of AIADMK in the local Panchayat Union. The petitioner and her husband handed over Rs.2.50 crores on faith to Mani on 27.09.2013 and 30.09.2013 for safe custody. With their permission, Mani has used a few lakhs for his own needs, which the couple did not seriously object. It is the version of Mani that on 05.10.2013, when he opened his safe, he found

money missing. In this regard, he lodged a complaint only on 07.10.2013, based on which, a case in Cr.No.288 of 2013 was registered on 07.10.2013 under Section 380 IPC (NP) against unknown accused.

3. From a reading of the status report dated 25.04.2018 filed by Mr.s.Balamurali Sundaram, the Inspector of Police, Gobichettipalayam Police Station, it is seen that, during routine vehicle check up on 22.10.2013, the police arrested one Benny [A2], Nirmal [A3] and Abil Raj [A4] and in their confession statement, they disclosed the involvement in the offence of one Pugazhendi [A1], a close relative of Mani.

4. Based on the disclosure statement of the arrested accused, some material objects like motorbike, mobile phones and cash of Rs.54,500/- were seized. Pugazhendi [A1] was arrested on 24.10.2013 and he confessed to the commission of the crime, however, stated that he had handed over one bag of cash to Sundaramurthy [A6] and another bag to one Karthik [A7] and Vadivel [A8]. From Pugazhendi [A1], the police recovered a Honda Star City motorbike and cash of Rs.20,000/-. There were few arrests here and there, but the police have not been able to recover the main booty so far. Under such circumstances, the petitioner is before this Court for transfer of investigation.

5. Heard Mr.S.Senthilvel, learned counsel for the petitioner; Ms.Prabhavathi, learned Additional Public Prosecutor appearing for the State and carefully perused the status report filed by the Inspector of Police, wherein, he has narrated the various arrests effected so far in this case, but to no avail.

6. Mr.Senthilvel, learned counsel for the petitioner submitted that the very story touted by Mani appears suspect, because, though he had noted the loss of money on 05.10.2013, he had chosen to lodge the complaint only on 07.10.2013. Learned counsel also contended that from out of the blues, the police arrested Benny [A2], Nirmal [A3] and Abil Raj [A4] on 22.10.2013 by saying that they were intercepted during routine vehicle check up. However, except the implication of Pugazhendi [A1] in the offence, the police were not able to recover more than Rs.54,000/-. On the whole, after conducting investigation from 2013 to 2018, the police have recovered a princely sum of Rs.85,000/- and 100 gms. gold jewellery against loss of Rs.2.50 crores.

7. There appears to be much force in the submission of Mr.Senthilvel that, the investigation has been perfunctory so far. There are several loose ends in the version of the police which defy logic and credibility. He contended that the petitioner's husband died of grief after the huge loss of money. That apart, the petitioner's husband had borrowed

loans from the Bank and this money was intended to discharge the liability, however, the liability stood undischarged, on account of which, SARFAESI proceedings were initiated by the Bank against the petitioner and her husband and all their properties were attached leaving them high and dry. May be, the accused arrested by the police were innocent persons and with a zeal to show progress in the investigation, the police would have been impelled to do so.

8. Therefore, this Court directs the transfer of investigation in Nambiyur Police Station Cr.No.288 of 2013 to the CBCID, Coimbatore. The Inspector of Police, Nambiyur Police Station is directed to hand over the case diary in Cr.No.288 of 2013 within two weeks from the date of receipt of a copy of this order to the Superintendent of Police, CBCID, Coimbatore, who shall appoint a competent person to do re-investigation of the case thoroughly and bring the guilty to justice.

Accordingly, this petition is ordered.

Sd/-
Deputy Registrar

// True Copy //

Sub Assistant Registrar

To

1.The Superintendent of Police
Gobichettipalayam.

2.The Inspector of Police,
Nambiyur Taluk
Erode District.

3.The Superintendent of Police
CBCID, Coimbatore

4.The Public Prosecutor
High Court, Madras.

+1cc to Mr.S.Senthil Vel, Advocate SR.No.55074

SMI/29.08.2018

Cr1.O.P.No.11059 of 2018