

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2018

CORAM:

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

Crl.O.P. No.24521 of 2017

C. Deivanayagam

Petitioner

vs.

1 The Director General of Police
Chennai - 4

2 The Superintendent of Police
Salem
Salem District

3 The Inspector of Police
Karipatti Police Station
Valappadi Taluk
Salem District

4 The Inspector of Police
Pallapatti Police Station
Salem District

Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. seeking to direct the respondents 1 and 2 to transfer Cr. No.40 of 2016 on the file of the third respondent police station for investigation to CB-CID, Salem District and submit a final report to the competent Court.

For petitioner Mr. N. Kolandaivelu

For respondents Mrs. Kritaka Kamal, P.
Govt. Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been preferred seeking to direct the respondents 1 and 2 to transfer Cr. No.40 of 2016 on the file of the third respondent police station for investigation to CB-CID, Salem District and submit a final report to the competent Court.

2 There was a house trespass and theft in the house of the petitioner/de facto complainant on 04.02.2016 when he was away from his house and on coming to know of it, he lodged a complaint, based on which, a case in Karipatti P.S. Cr. No.40 of 2016 was registered under Section 457 and 380 IPC against unknown accused. During the course of investigation, the Karipatti police apprehended two accused by name Pandian and Anandan and wound up the investigation and filed a final report before the Judicial Magistrate Court No.II, Salem. The Judicial Magistrate No.II, Salem, thoroughly perused the final report and Section 161 Cr.P.C. statements and found that though the police had recorded the confession of the accused to the effect that the jewels that were lost by the de facto complainant have been recovered, yet, they were not produced before the Court. Hence, the Judicial Magistrate No.II, Salem, rejected the final report and refused to take cognizance on such a faulty report. Under such circumstances, the de facto complainant is before this Court for a direction to transfer the case to the CB-CID.

3 On 16.04.2018, this Court passed the following order:

"On the direction of this Court, Mr. N. Suriyamurthy, Deputy Superintendent of Police, Valappadi, Salem District and Mr. P. Kamalesan, Inspector of Police, Kariapatti Police Station are present.

2 It is seen that one Kandhavelu was Inspector of Police of Kariapatty Police Station, when the final report in Cr. No.40/2016 was filed before the Judicial Magistrate No.II, Salem. Learned Judicial Magistrate No.II, Salem has rejected the final report on the ground that the investigation was perfunctory.

3 This Court places on record its appreciation to Mr.V.Suresh, the then Judicial Magistrate No.II, Salem, for the manner in which he has dealt with the case at hand. The Superintendent of Police, Salem District, is directed to entrust the investigation in Cr. No.40 of 2016 to the Deputy Superintendent of Police, Valappady Sub Division under whose jurisdiction it falls. The Superintendent of Police is directed to monitor the case in Cr.No.40 of 2016. The Deputy Superintendent of Police shall file the status report dealing with the steps taken by him in the investigation of the case in Cr. No.40 of 2016.

Post the matter on 18.06.2018 at 02.15 p.m."

4 Mr. N. Suriyamoorthy, the present Deputy Superintendent of Police, has filed a status report dated 17.06.2018 stating that he has so far examined six witnesses and in paragraph no.6 of the said status report, it is stated as under:

"6. It is humbly submitted, that even though the offence in Cr. No.40/2016 under Section 457,380 IPC of Karipatty P.S. has taken place within Valapady Sub Division in Salem District, the accused in the case has stated that the jewels have been handed over by him to police in Salem City. It is further submitted that the then Investigation Officer of this case Tr. Kandhavel is now posted as Inspector of Police in Morappur Police Station in Dharmapuri District and the then Inspector of Police, Pallapatty P.S. Salem City Tr. Vincent has been promoted as Deputy Superintendent of Police and is posted to NIBCID at Coimbatore and enquiries has to be conducted with all officers who are concerned in the case."

5 On a reading of the status report, it appears that Mr. R. Vincent, who was the then Inspector of Police, Pallapatty Police Station and who was a member of the special team that was formed to nab the accused, has now been promoted as Deputy Superintendent of Police. This Court is not satisfied with the manner in which the present Deputy Superintendent of Police has conducted the investigation. The fact remains that in the confession of the accused, he has disclosed about the recovery of the articles, whereas, the same have not been produced before the Magistrate. That is the reason why the Magistrate had refused to take the final report on file.

6 In such view of the matter, interests of justice would be sub-served, if the case in Karipatti P.S. Cr. No.40 of 2016 is transferred to the file of the CB-CID, North Zone and it is ordered accordingly.

7 Mr. S. Baskara Reddy, Inspector of Police, Karumanturai Circle who is now in charge of Karipatti Police Station and who is present before this Court today, is directed to obtain orders of the Superintendent of Police, Salem District and entrust the case diary in Cr. No. 40 of 2016 on the file of Karipatti Police Station, to the Superintendent of Police, CB-CID, North Zone, within a period of two weeks from the date of receipt of a copy of this order. The CB-CID, North Zone, shall investigate the case from all angles, including the role of the local police in the investigation of the case.

This Criminal Original Petition stands ordered with the above directions.

Sd/-
Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

cad
To

1 The Director General of Police
Chennai - 4

2 The Superintendent of Police
Salem
Salem District

3 The Inspector of Police
Karipatti Police Station
Valappadi Taluk
Salem District

4 The Inspector of Police
Pallapatti Police Station
Salem District

5 Mr.S. Baskara Reddy,
Inspector of Police,
Karumantoradi Circle, Salem.

6 The Public Prosecutor
High Court of Madras
Chennai 600 104.

+ 1 cc to Mr. N. Kolandaivelu, Advocate Sr.38526

(CS-DR)
EU (29/06/2018)

Cr1.O.P. No.24521 of 2017