

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 30.08.2018

Pronounced on : 11.09.2018

CORAM

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

Cr1.O.P.No.7532 of 2013

C. Dharmalingam ... Petitioner/Defacto complainant
Vs.

The State rep. By
Inspector of Police,
Kammapuram,
Police Station,
Cuddalore District.
Respondent/Complainant

...

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to transfer the investigation in Cr.No.161 of 2012 (on the file of respondent police, Inspector of Police, Kammapuram Police Station) to CBCID or any other suitable investigation agency.

For Petitioner : Mr.D. Ravichander

For Respondent : Mr.T.Shanmugarajeswaran
Government Advocate (Cr1.Side)

O R D E R

This petition has been filed by the defacto complainant to transfer the investigation in Cr.No.161 of 2012 on the file of the respondent to CBCID or any other investigating agency.

2. The learned counsel for the petitioner has submitted that the petitioner has lodged a complaint on 21.09.2012 making specific allegations of theft and robbery, but the respondent has not registered the case under proper provisions of law. On the contrary, he has registered the case for minor offences. He further submitted that in the complaint, the petitioner has specifically stated that he kept a sum of Rs.2,750/- and also documents relating to his house in a shoulder bag and the same has been robbed by the accused persons, but the respondent has not registered the case under proper provisions of law. He further submitted that after filing

of this petition, the respondent has hurriedly filed chargesheet under Sections 341, 294 (B) 323, 355 and 506 (ii) IPC with a view to help the accused. He further submitted that the petitioner has filed a protest petition before the Judicial Magistrate and after considering the said petition, the learned Judicial Magistrate No.II, Virudhachalam, has passed an order on 25.02.2015 that the respondent has not properly investigated the case and hence he directed the respondent to re-investigate the matter and file a proper report. He further submitted that even thereafter, the respondent has not reinvestigated the matter and hence, the petitioner has filed another petition before the learned Judicial Magistrate to send a reminder to the respondent and accordingly, the learned Judicial Magistrate, has sent the reminder to the respondent on 28.08.2017, but the respondent has not taken any steps for re-investigating the matter and hence the petitioner has filed CrI.O.P.No.7240 of 2018 before this court and in that petition, this court has passed an order on 09.03.2018 directing the respondent to complete the investigation and file a final report within a period of four weeks from the date of receipt of a copy of that order. He further submitted that thereafter the petitioner has sent a notice through advocate to the Inspector of Police, Kammapuram Police Station to comply with the order passed by this court in CrI.O.P.No.7240 of 2018 and the same has been received by the Inspector of Police, Kammapuram Police Station. But even thereafter, the respondent has not re-investigated the matter and final report also has not been filed and therefore, he requests to transfer the investigation to some other agency.

3. The learned Government Advocate (CrI.Side) appearing for the respondent has submitted that after receipt of the order passed by the learned Judicial Magistrate No.II, Virudhachalam, the respondent has taken the matter for re-investigation and when the matter was pending for re-investigation, the petitioner has filed CrI.O.P.No.7240 of 2018 and in that petition, this court has passed an order on 09.03.2018 to complete the investigation and file a final report. He further submitted that the re-investigation is in progress and hence, he requests to dismiss the present petition.

4. A perusal of the Case Diary file shows that the learned Judicial Magistrate No.II, Virudhachalam, has sent a memo dated 25.02.2015 directing the respondent herein to investigate the matter further and file a final report at early, but in pursuance of the said order, the respondent has not examined any of the witnesses. The

petitioner has filed Crl.O.P.No.7240 of 2018 to direct the respondent to comply with the order of the Judicial Magistrate No.II, Virudhachalam. This court also passed an order on 09.03.2018 directing the respondent to complete the investigation and file a final report within a period of four weeks from the date of receipt of a copy of the order, but the respondent did not give any respect to the said order also. The present Criminal Original Petition came up for hearing on 13.08.2018 and only thereafter on 20.08.2018, the respondent has sent summons to the witnesses. It shows that only for the purpose of this case, for name sake, the respondent has sent summons to the witnesses. Therefore the Superintendent of Police, Cuddalore District is directed to transfer the matter to some other Inspector of Police for further investigation and filing final report within a period of two months from the date of receipt of a copy of this order. The Superintendent of Police, Cuddalore, is further directed to monitor the investigation personally.

5. With the aforesaid directions, this petition is disposed of.

Sd/-

Assistant Registrar(Co)

//True Copy//

Sub Assistant Registrar

gv
To

1. The Inspector of Police,
Kammapuram,
Police Station,
Cuddalore District.
 - 2.The Judicial Magistrate II, Virudhachalam,
 - 3.Do thro the Chief Judicial Magistrate,
Cuddalore.
 4. The Superintendent of Police, Cuddalore,
 - 5.The Public Prosecutor,
High Court, Madras.
- +1cc to Mr.D. Ravichander , Advocate SR.No. 63909

order in
Crl.O.P.No.7532 of 2013

ASK(26/09/2018)