

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 21.06.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.12016 of 2018

D.Gokulakumari

.. Petitioner

Vs

1.The Commissioner of Police,
Chennai City,
E.V.K.Sampath Salai,
Chennai-600 007.

2.The State of Tamil Nadu,
Rep. by the Inspector of Police,
J-2, Adayar Police Station, (Crime),
Chennai-600 020.
(Crime No.255 of 2008)

3.The Assistant Commissioner of Police,
Adyar,
Chennai-600 020.

.. Respondents

Criminal Original Petition filed under Section 482 Cr.P.C.,
praying to direct the 1st respondent, the Commissioner of Police,
Chennai to transfer the investigation in Crime No.255 of 2008 on
the file of the 2nd respondent to the file of the Inspector,
designated by the 1st respondent for further investigation in the
above matter and consequently to file a final report.

For Petitioner : Mr.Jaya Venkatraman

For Respondents : Mr.C.Raghavan, GA

O R D E R

This Criminal Original Petition has been filed seeking
direction to transfer the investigation in Crime No.255 of 2008
from the file of the 2nd respondent to the file of
the Inspector designated by the 1st respondent for further
investigation and to file final report.

2.Heard the learned counsel for the petitioner; learned Government Advocate appearing for the respondents and perused the materials placed on record.

3.It is the case of the petitioner/de facto complainant that while she was travelling in a Metropolitan Transport Corporation bus in route No.PP 19 on 24.02.2018, she lost 22 sovereigns of gold that was kept in a bag. In this regard, a case in Crime No.255 of 2018 was registered under Section 379 IPC by the 2nd respondent Police. The de facto complainant filed Crl.OP.No.8865 of 2015 for a direction to the respondent Police to investigate the case in Crime No.255 of 2018 and file a final report. This Court, by order dated 24.04.2015 in Crl.OP.No.8865 of 2015 passed the following order:

"... 3.It appears that this case is pending, since 2009. The respondent-Police is directed to complete the enquiry and file a Final Report or a Closure Report as the case may be, within a period of six months from the date of receipt of a copy of this order, with due intimation to the defacto complainant."

Under such circumstances, the de facto complainant has filed the present petition for further investigation.

4.Today, Ms.M.Sudha, Inspector of Police, J-2 Adyar Police Station is present before this Court. On instructions, the learned Government Advocate submitted that the complainant had not named any person and therefore, in column No.7 of the FIR, the name of the suspect has been shown as unknown. He further contended that Police conducted investigation and since they were not able to trace the accused nor recover the Jewels, they have stopped the investigation on 05.06.2008 as not tracable.

5.He further submitted that the Public Prosecutor had failed to bring all these facts to the notice of this Court, when Crl.OP.No.8865 of 2015 was heard. This Court called for the station Crime Diary and perused the same. On a perusal of the same, it is seen that the Police have recorded on 05.06.2008 as undetectable.

6.A Full Bench of this Court in Chinnathambi @ Subramani Vs State reported in 2017[1] LW [Crl.] 485 has followed the law laid down by the Supreme Court in State of Rajasthan Vs Aruna Devi reported in [1995]1 SCC 1, wherein, it has been held that even if the case is closed as undetected, the Police have the power to reopen the case on receipt of fresh information. Recording the case as undetectable, does not mean that the investigation has been stopped or closure report filed. At any time, if the accused is arrested in any other case and he confesses to the commission of the offence at hand, the police can proceed further with the investigation. Under such circumstances, this is not a fit case to transfer the

investigation to any other agency, taking into consideration the fact that FIR was registered in the year 2008 for an offence under Section 379 IPC against unknown accused.

With the above direction, this petition is closed.

Sd/-
Assistant Registrar(CS VI)

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Sub Assistant Registrar

gya

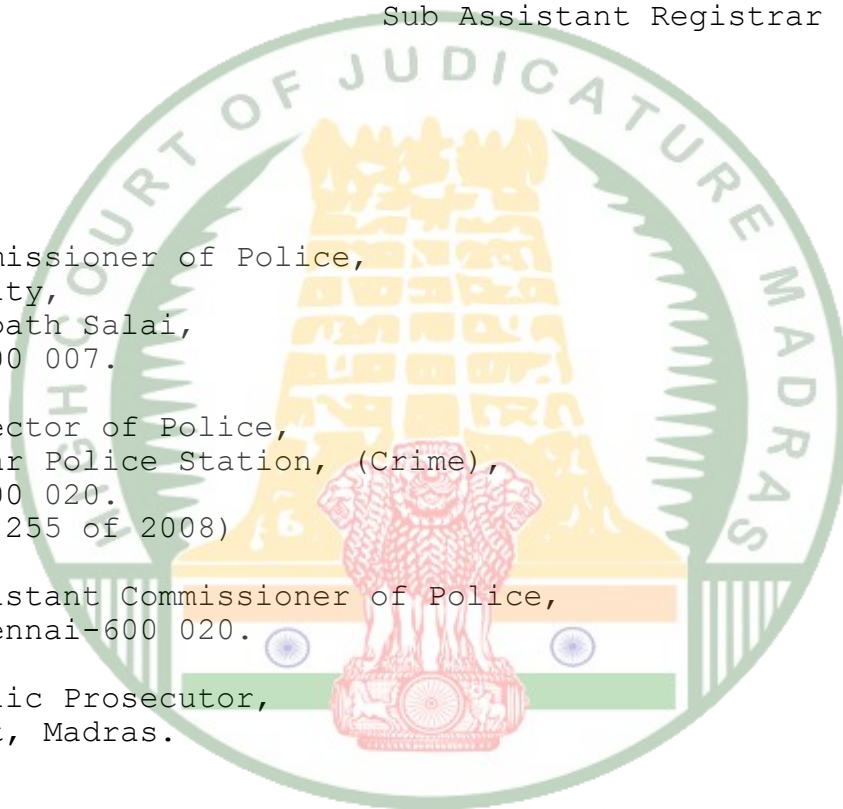
To

1.The Commissioner of Police,
Chennai City,
E.V.K.Sampath Salai,
Chennai-600 007.

2.TheInspector of Police,
J-2, Adayar Police Station, (Crime),
Chennai-600 020.
(Crime No.255 of 2008)

3.The Assistant Commissioner of Police,
Adyar, Chennai-600 020.

4.The Public Prosecutor,
High Court, Madras.



सत्यमेव जयते CRL.OP.No.12016 of 2018

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