

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.06.2018

CORAM:

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

W.P. No.14572 of 2018

Yamuna Gnanaprakasam

Petitioner

vs.

- 1 The Commissioner of Police
Greater Chennai
Sub Urban Police
St. Thomas Mount
Chennai 600 016
- 2 The State represented by
the Inspector of Police
S-8, Adambakkam Police Station
Chennai 600 088
- 3 The Joint Director
Central Bureau of Investigation
EVK Sampath Building
Nungambakkam
Chennai 600 006
- 4 The Inspector of Police
CB-CID (Metro)
Chennai
- 5 The Director
Military Intelligence
Army Headquarters
Church Road
New Delhi 110 001

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing transfer and investigation of Cr. No.385 of 2010 on the file of the second respondent, now, pending on the file of the fourth respondent in Cr. No.8 of 2014, to the third respondent.

For petitioner Mr. G. Jeremiah
For RR 1,2 & 4 Mr. D. Raja
Government Advocate

ORDER

This writ petition has been preferred seeking the following prayer:

"seeking a writ of mandamus directing transfer and investigation of Cr. No.385 of 2010 on the file of the second respondent, now pending on the file of the fourth respondent in Cr. No.8 of 2014, to the third respondent."

2 One Gnana Prakasam, who was working as Examiner - II in the Military Intelligence, Army Headquarters, Ministry of Defence, New Delhi, went missing on 06.06.2010, in connection with which, a case in Adambakkam P.S. Cr. No.385 of 2010 for "man missing" was registered. Since the petitioner herein, who is the wife of the said Gnana Prakasam, was not satisfied with the progress of investigation, she filed H.C.P. No.1132 of 2010 and also filed Crl.O.P. No.742 of 2011 for transfer of investigation. Pursuant to the orders passed by this Court in Crl.O.P. No.742 of 2011, the case was transferred from the file of the local police to the file of the CB-CID. CB-CID took up investigation of the case and re-registered the case as Cr. No.8 of 2014 and have conducted investigation by examining about 104 witnesses. Unfortunately, the CB-CID has not been able to make a breakthrough in the investigation and therefore, they have filed a closure report dated 14.05.2018 before the Judicial Magistrate No.I, Chingleput, temporarily closing the case. Under such circumstances, the petitioner is before this Court seeking CBI investigation.

3 Under normal circumstances, this Court would be relegating the petitioner to file a protest application before the Court concerned on the closure report. However, this Court finds that the missing person was in Army Intelligence and therefore, a thorough probe by a centralised agency may bear fruit. It is made clear that this Court is not returning a finding that the investigation of the CB-CID is perfunctory. On the solitary ground that the missing person was working in a very sensitive department, this Court is of the view that interests of justice will be sub-served if the case is entrusted to the CBI for further investigation.

4 Accordingly, this Court directs the Superintendent of Police, CB-CID, to hand over the case diary in CB-CID Cr. No.8 of 2014 to the Superintendent of Police, Special Crime Branch, Central Bureau of Investigation, Rajaji Bhavan, Besant Nagar, Chennai, who shall entrust the case to a competent officer for further investigation. No time limit can be fixed for cases of this nature since the issue is already 8 years old.

This writ petition stands ordered in the above terms.
Costs made easy.

s/d-
Assistant Registrar (CS VII)

True Copy

Sub-Assistant Registrar

cad

To

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+1 CC to Mr. G. Jeremiah, Advocate sr 38175.

CNR (CO)
SP (26/06/2018)

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