

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 20.12.2018
CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P.Nos.29837 and 29839 of 2018
and
Crl.M.P.Nos.17500 and 17502 of 2018

Dr.V.M.Thomas

... Petitioner in both Crl.O.Ps

Vs.

1.The Commissioner of Police,
Greater Chennai Police,
EVK Sampath Road, Vepery,
Chennai - 600 007.

2.State rep by
The Inspector of Police,
K-1, Sembium Police Station,
Chennai - 600 011.

3.Director General of Police,
Crime Branch CID,
No.3, SIDCO Electronic Complex,
I Floor, Guindy, Chennai - 600 032.

... Respondents in both Crl.O.Ps

COMMON PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., to pass an order directing the investigation in Crime Nos.1420 of 2017 and 1561 of 2017 pending on the file of the second respondent police to be transferred to any other independent investigating agency viz. CBCID, the third respondent herein or any other agency.

For Petitioner in both Crl.O.Ps:Mr.P.S.Raman, Senior Counsel
for M/s.Ojas Law Firm

For Respondents in both Crl.O.Ps: Mr.Mohamed Riyaz
Additional Public Prosecutor

O R D E R

These Criminal Original Petitions have been filed seeking for transfer of investigation pending on the file of the second respondent in Crime Nos.1420 of 2017 and 1561 of 2017.

2.Mr.P.S.Raman, learned Senior Counsel representing the counsel for the petitioners would submit that the petitioners are running a hospital called as Chennai Fertility

Center and Research Institute at Nelson Manickam Road, Aminjikarai, Chennai. Certain employees, who were working with the petitioners left the job and started another fertility centre in the same place. Thereafter, one complaint after another started to be given against these petitioners. The learned Senior Counsel for the petitioner would submit that the first complaint was given on 05.10.2017 for an incident, which is said to have been taken place on 04.10.2017 at 8.15 p.m. This was registered for an offence under Sections 341, 324, 307 IPC r/w 109 IPC. Within one day, another complaint came to be given on 06.10.2017 by a Tea Shop owner for an incident, which is said to have been taken place on 04.10.2017 and the same was registered for an offence under Sections 341, 294(b), 336, 392, 397 and 506(ii) IPC. Not stopping with this, the first complaint's sister gave a third complaint on 01.11.2017 for an incident, which is said to have been taken place on the same day at 11.15 a.m. and the same the second respondent police registered another F.I.R. in Crime No.1561 of 2017, for an alleged offence under Sections 341, 294(b), 336, 392, 397 and 506(ii) IPC.

3. The learned Senior Counsel submitted that one complaint after another was given against the petitioner only with an intention to detain the petitioner under the Goondas Act. In fact the petitioner was detained under the Goondas Act on 04.11.2017 and the same was challenged before this Court in H.C.P.No.2145 of 2017 and the detention order itself was quashed by an order dated 11.12.2017 by this Court.

4. The learned Senior Counsel by pointing out on the above said facts submitted that there is a vested interest acting against the petitioner and the second respondent police is hand in glove, determined to close down the hospital run by the petitioner. The learned Senior Counsel further submitted that the second respondent is bent upon foisting cases against the petitioner and in one of the case, he also proceeded further to file a final report. Therefore, the learned counsel would submit that the petitioner does not have confidence in the investigation conducted by the second respondent. The learned Senior Counsel made it clear that the petitioner is not fighting shy to face the cases and he only requires an investigation by some other investigating officer or some other agency in order to ensure that the truth comes out of the investigation.

5. The learned Additional Public Prosecutor would submit that the second respondent does not have any vested interest against the petitioner. The second respondent is only doing his duty, based on the complaint received from different persons. The learned Additional Public Prosecutor would further submit that if this Court feels that the cases should be investigated by different investigating officer, appropriate direction may be given to that effect. The second respondent does not have any personal interest in the cases

that have been registered and pending in the concerned police station.

6. In the facts and circumstances of the cases, this Court is of the considered view that in order to ensure that the investigation is carried out effectively and independently without any doubts cast upon the investigating officer, it would be better if the investigation in Crime Nos. 1420 of 2017 and 1561 of 2017 is continued by some other police officer. In view of the specific stand taken by the learned Additional Public Prosecutor to the effect that the investigation can be conducted by any investigating officer and the second respondent does not have any personal interest in the case, this Court deems it fit to direct the Deputy Commissioner of Police, Pulianthope, to assign the investigation in these cases to another police officer in the rank of Inspector of Police, which will be monitored by the concerned Assistant Commissioner of Police. By resorting to this exercise, neutrality in the investigation can be maintained and the real truth behind the alleged incident will get revealed.

7. In view of the above, the Deputy Commissioner of Police, Pulianthope is directed to immediately assign the task of investigation in Crime Nos. 1420 of 2017 and 1561 of 2017 to some other police officer in the rank of Inspector of Police and direct the investigation to be monitored by the concerned Assistant Commissioner of Police. The second respondent police is directed to immediately hand over the case diary to the Deputy Commissioner, Pulianthope to enable the transfer of investigation in accordance with the directions given by this Court.

8. Accordingly, this Criminal Original Petitions are disposed of. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

lpp/vsa

To

1. The Deputy Commissioner of Police,
Pulianthope.

2. The Commissioner of Police,
Greater Chennai Police,
EVK Sampath Road, Vepery,
Chennai - 600 007.

3. The Assistant Commissioner of Police,
Chennai

4. Director General of Police,
Crime Branch CID,
No.3, SIDCO Electronic Complex,
1st Floor, Guindy, Chennai - 600 032.

5. The Assistant Commissioner of Police,
Pulianthope.

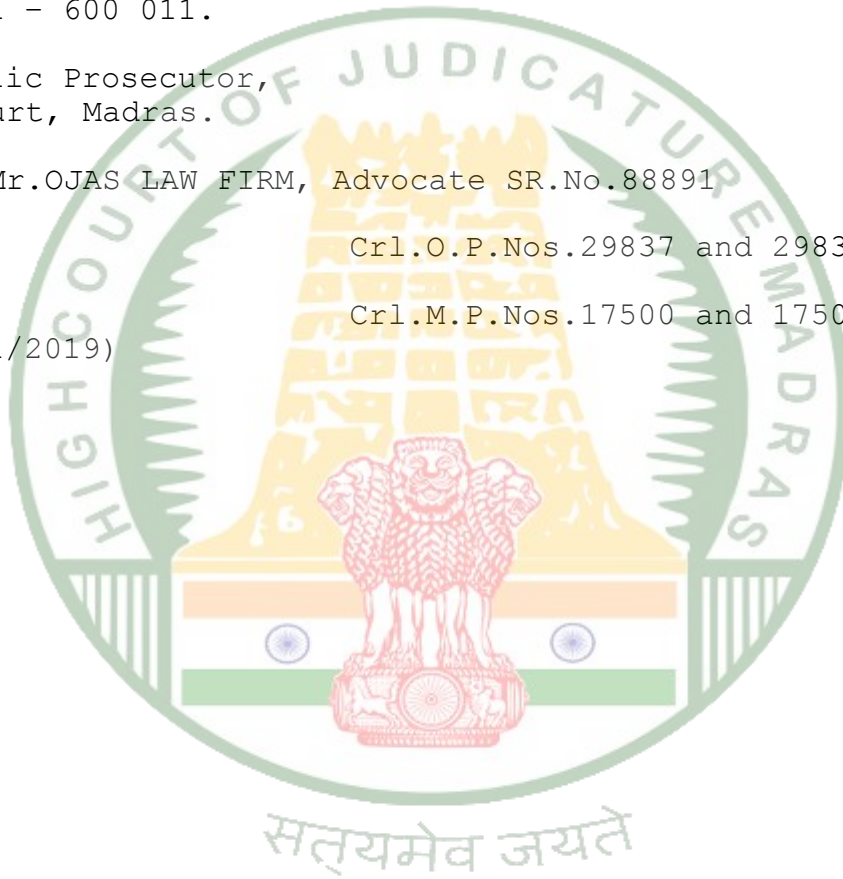
6. State rep by
The Inspector of Police,
K-1, Sembium Police Station,
Chennai - 600 011.

7. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.OJAS LAW FIRM, Advocate SR.No.88891

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A.SK(24/01/2019)



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