



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Monday, the Sixteenth Day of April, Two Thousand and Seventeen
CORAM:

The Hon`ble Mr.Justice.S.S.SUNDAR

CRL MP(MD).No.2433 / 2018

IN

CRL OP(MD).No. 16910 / 2017

KANAGAMANI

... Petitioner

-Vs. -

1 THE SUPERINTENDENT OF POLICE,
THENI DISTRICT, THENI.

2 THE SUB INSPECTOR OF POLICE,
CHINNAMANUR POLICE STATION,
THENI DISTRICT.
(IN CRIME NO.668 OF 2016)

3 THE SUPERINTENDENT OF POLICE,
CBCID, MADURAI.

... Respondents

Prayer in CRL MP(MD).No.2433 / 2018 :

Criminal Miscellaneous Petition is filed under section 482 of Criminal Procedure Code praying this Hon`ble Court to recall the order passed in Crl.O.P.No.16910 of 2017 dated 08.12.2017

Prayer in CRL OP(MD).No. 16910 / 2017 :

Criminal Original Petition is filed under section 482 of Criminal Procedure Code praying this Hon`ble Court to direct the 1st & 2nd Respondents to transfer the investigation in Cr.No.668 of 2016 pending on the file of the 2nd Respondent to the 3rd Respondent or to any other competent independent Agency to take necessary action at earliest in accordance with law to nab the Accused.

ORDER: This Petition coming on for hearing on this day, upon perusing the affidavit and material papers filed, and the earlier orders of this Court dated 08.12.2017 and upon hearing the arguments of Mr. M.GNANAGURUNATHAN, Advocate for the Petitioner, and of Mrs.M.ANANTHA DEVI, Government Advocate (criminal Side) on behalf of the Respondents, this Court made the following order:

This petition is filed to recall the order passed in Crl.O.P (MD)No.16910 of 2017, dated 08.12.2017. Crl.O.P(MD)No.16910 of 2017 was filed for a direction to the respondents to transfer the investigation in Cr.No.668 of 2016, pending on the file of the second respondent to the third respondent or to any other competent independent agency to take necessary action at earliest to nab the accused.



2.This Court has earlier passed an order, on 08.12.2017, on the following lines:

"2.The petitioner states that he is the de-facto complainant in Cr.No.668 of 2016 on the file of the second respondent. The petitioner states that the second respondent has not taken any steps to conduct the enquiry properly. It is therefore submitted that the petitioner has approached this Court for a direction for transfer of investigation.

3.The learned Additional Public Prosecutor, on instructions, submitted that the charge sheet was filed on 29.03.2017 itself, after completing the investigation. Since no further enquiry is contemplated, it is submitted that there is no necessity to transfer the investigation, as claimed by the petitioner"

3.It was reported before this Court that the petitioner has filed a copy application before the learned Judicial Magistrate, Uthamapalayam, to get the copy of the First Information Report and charge sheet. It appears that the copy application was returned on 08.12.2017, on the ground that the charge sheet was not yet filed. However, in response to the submission of the learned counsel for the petitioner, the learned Government Advocate, on instructions, submitted that the information furnished before this Court was not false and that the charge sheet though filed on 29.03.2017, was yet to be taken on file. It is further clarified that the copy application filed by the learned Counsel for the petitioner was returned with an endorsement, as if the charge sheet is not yet filed.

4.However, today, the learned Government Advocate, on further instructions, admitted that the charge sheet in this case was not filed. Since it is admitted that the charge sheet was filed only on 29.01.2018, the order in CrI.O.P.(MD)No,16910 of 2017, is on the misrepresentation of the learned Additional Public Prosecutor, who represented the respondents. Hence, this Court is of the view that the order dated 08.12.2017, in CrI.O.P.(MD)No,16910 of 2017, is liable to be recalled and hence recalled.

5. Office is directed to the post the main matter in the usual course.

Sd/-
Assistant Registrar(CS-I)

/True copy/



TO

1 THE SUPERINTENDENT OF POLICE,
THENI DISTRICT, THENI.

2 THE SUB INSPECTOR OF POLICE,
CHINNAMANUR POLICE STATION,
THENI DISTRICT.

3 THE SUPERINTENDENT OF POLICE,
CBCID, MADURAI.

4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO:

The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

ORDER DATED : 16.04.2016

ORDER

CRL MP (MD) No.2433 of 2018
IN
CRL OP (MD) No.16910 of 2017

MS/SV-MMS/SAR-1/27.04.2018/3P.6C