



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 23.01.2018

Delivered on: 06.03.2018

CORAM

THE HONOURABLE MR.JUSTICE **P.RAJAMANICKAM**

Crl.O.P.(MD)No.1022 of 2018

R.Gurusamy

... Petitioner

-Vs-

1. The Superintendent of Police,
Madurai.

2. The Deputy Superintendent of Police,
Omachikulam,
Madurai District.

3. The Inspector of Police,
Karupayurani Police Station,
Madurai.

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to transfer the investigation from the third respondent to the second respondent in pursuance to Crime No.434 of 2017 on the file of the third respondent.

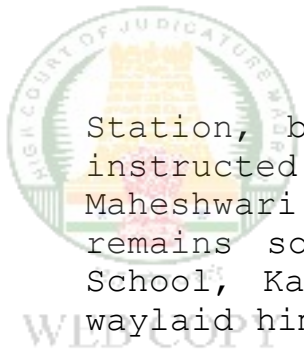
For Petitioner : Mr.N.Anand

For Respondents : Mr.Prabhu Ramachandran
Government Advocate (Crl.Side)

O R D E R

This petition has been filed by the defacto complainant to transfer the investigation in crime No.434 of 2017 from the third respondent to the second respondent.

2.The learned counsel for the petitioner has submitted that the petitioner belongs to Hindu Pallar community which is a Scheduled Caste. He further submitted that the petitioner has joined as Advisor in a private company namely VGL Diaries Limited. The said company has been running by one Maheshwari and her Associates. Subsequently, one Karthick Raja, the first accused in crime No.434 of 2017 joined as a share holder and thereafter, the Managing Director Maheshwari and the first accused colluded and conspired to loot huge money from the public. The said Maheshwari has purchased several properties and jewels in the name of the petitioner. Hence, the petitioner has lodged a complaint on 15.03.2017 before the Inspector of Police, Silaiman Police



Station, but the police has closed the said complaint and also instructed the petitioner to go for compromise with the said Maheshwari and for that the petitioner has not agreed. The fact remains so, on 04.11.2017 the petitioner while came near Appar School, Karupaurani, the first accused along with his associates waylaid him and abducted in a Maruthi Car and tied his hands.

3. The learned counsel for the petitioner further submitted that they took the petitioner to the remote place and removed his cloths and kept him with inner wears and brutally attacked him and broken the left hand and due to the said attack, the petitioner became un-conscious and thereafter believing that the petitioner died, the accused persons removed the gold ornaments from the petitioner and started to dig a pit to bury him. At that time the petitioner became conscious and ran away from that place and fell down on the main road and on noticing the same, the passersby took the petitioner to Government Hospital through 108 Ambulance and admitted in the Emergency Care Unit. At that time the police person came to the hospital and recorded the statement of the petitioner and registered a case in crime No.434 of 2017 under Sections 323, 506(ii) and 379 IPC which is entirely different from the statement given by the petitioner. Since the petitioner was in the hospital, he could not move to the higher officials with regard to registration of FIR. After discharging from the hospital not recovering full, the petitioner made a representation to the respondent Nos. 1 and 2 on 12.12.2017 narrating the entire facts but they did not conduct any enquiry with regard to the said representation. He further submitted that again the petitioner has sent another representation on 08.01.2018 to the second respondent, but no action has been taken on that representation also.

4.The learned counsel for the petitioner further submitted that the offences committed by the accused persons would attract Section 307 IPC and also the provisions of SC/ST Act, but the third respondent did not bother about the serious nature of the offences and hence the learned counsel for the petitioner requests this Court to transfer the investigation from the third respondent to the second respondent.

5.The learned Government Advocate has submitted that on 06.11.2017 the then Sub-Inspector of Police, Karupppaurani Police Station has received intimation from the Government Hospital, Madurai as the petitioner has been admitted in the said Hospital and after receiving the said intimation, the Sub-Inspector of Police, has rushed to the said hospital and recorded the statement from the petitioner and after obtaining statement from the petitioner, the Sub-Inspector of Police, returned back to the police station and registered a case in crime No.434 of 2017 under Sections 324, 506(ii) and 329 (NP) IPC and thereafter, he handed over the FIR to the third respondent for investigation.



6.He further submitted that after receipt of the records from the Sub-Inspector of Police, the third respondent herein has taken the matter for investigation. He further submitted that in the complaint, the petitioner has not stated anything that the accused persons have insulted the petitioner by using his caste name in the public view. Further the said complaint does not disclose that the accused persons have attempted to commit murder and hence the case was not registered under Section 307 IPC and under the provisions of SC/ST Act. He further submitted that the third respondent is investigating the matter in an unbiased manner and there is no necessity for transferring the investigation to the second respondent.

7.The petitioner in this petition has not disputed the fact that the police has recorded the statement from the petitioner. It is also not disputed that he has signed in the said statement. Further, he has not stated in this petition that he was forced to sign in the statement which was not given by him. Further, more he has not stated that the said Sub-Inspector of Police has acted against the interest of the petitioner. Therefore, it has to be presumed that the Sub-Inspector of Police, has recorded the statement what was given by the petitioner.

8. A perusal of the FIR shows that the petitioner has not at all stated that he belongs to Scheduled Caste and he was insulted by the accused by saying his caste name in public view. Therefore, it appears that the Sub-Inspector of Police, has not registered the FIR under the provisions of SC/ST Act.

9.In sofar as the contention of the petitioner that Section 307 IPC has been purposely omitted in the FIR is concerned it is for the third respondent to consider the said contention and if the investigation reveals that Section 307 IPC would attract then he has to file a final report under the relevant provisions of law.

10.For the aforesaid reasons, this Court is of the view that the investigation in crime No.434 of 2017 need not be transferred from the third respondent to the second respondent and therefore this petition is liable to be dismissed.

11.In the result , this petition is dismissed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/



To

1. The Superintendent of Police,
Madurai.
2. The Deputy Superintendent of Police,
Omachikulam,
Madurai District.
3. The Inspector of Police,
Karupayurani Police Station,
Madurai.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.N.Anand, Advocate Sr.No.53549

GSP

VB/JC/SAR4/20.03.2018/4P/6C

Order made in
Cr1.O.P. (MD) No.1022 of 2018
06.03.2018