



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.04.2018

C O R A M:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

CRL.O.P. (MD) No.5673 of 2018

V.Manikandan

... Petitioner

Vs.

1. The Superintendent of Police,
Dindigul District,
Dindigul.
2. The Inspector of Police,
Palani Adivaram Police Station,
Palani, Dindigul District.
(Crime No.419 of 2016)
3. The Inspector of Police,
CBCID, Dindigul,
Dindigul District.

... Respondents

Petition is filed under Section 482 of the Criminal Procedure Code to transfer the investigation in Crime No.419 of 2016 dated 27.12.2016 on the file of the second respondent herein to the third respondent herein viz., CBCID.

For Petitioner : Mr.A.Thiruvadikumar

For Respondents : Mr.M.Chandrasekaran
Additional Public Prosecutor

ORDER

This petition has been filed to transfer the investigation in Crime No.419 of 2016 dated 27.12.2016 on the file of the second respondent herein to the third respondent herein viz., CBCID.

2.According to the petitioner, a case has been registered against the petitioner in Cr.No.419 of 2016 dated 27.12.2016, on the file of the second respondent herein.

3.According to the learned counsel for the petitioner, the petitioner has made a complaint against one Shunmugasundaram, the then Deputy Superintendent of Police, Palani Sub Division, for demanding illegal gratification from the petitioner. Taking vengeance for the said complaint made by the petitioner, a case has



been registered against the petitioner and others at the instance of the said Shanmugasundaram by one Alagusundaram in Crime No.419 of 2016 on the file of the Palani Adivaram Police station / second respondent herein. Since the second respondent had developed a grudge against the petitioner, in view of the initiation of the vigilance probe, the petitioner apprehends that there would not be any fair enquiry in this case by the second respondent. Hence, the petitioner has filed the present petition before this Court to transfer the investigation in Cr.No.419 of 2016 from file of the second respondent to the file of third respondent herein.

4. The learned Additional Public Prosecutor appearing for the respondents has relied upon a judgment of this Court reported in **2005 (3) CTC 673**, in the case of **Alliraj Gounder Vs. The Inspector of Police**, in which, this Court had held as follows:-

"3. The Supreme Court in **C.B.I. v. Rajesh Gandhi**, 1997 CrI.L.J 63 observed that an accused cannot have a say as to who should investigate the offence he is charged with. Decision to investigate or decision on agency which should investigate does not attract the principles of natural justice. In our opinion the same principle applies to complainants also, and they cannot ordinarily have a say as to which agency should investigate an alleged criminal offence."

5.The said decision has been subsequently relied upon by this Court, in the case reported in **2006(2) CTC 285 (Government of Tamil Nadu Vs. Muthulakshmi)**, wherein it is held as follows:-

"35.It is also relevant to note that in **Alliraj Gounder V. The Inspector of Police**, 2005(3)CTC 673, First Bench of this Court after referring to a decision in **C.B.I. v. Rajesh Gandhi** 1997 CrI.L.J. 63, has stated that an accused cannot have a say as to who should investigate the offence he is charged with. In the said decision, the Supreme Court has observed that the decision to investigate or decision on agency which should investigate does not attract the principles of natural justice. In the light of the decision of the Supreme Court, the Division Bench has concluded that-

"in our opinion the same principle applies to complainants also, and they cannot ordinarily have a say as to which agency should investigate an alleged criminal offence. "



6. In the light of the aforesaid decisions, the present petition for transfer the investigation cannot be entertained and the same is liable to be rejected. Accordingly, the Criminal Original Petition is dismissed.

WEB COPY

Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Superintendent of Police,
Dindigul District,
Dindigul.
2. The Inspector of Police,
Palani Adivaram Police Station,
Palani,
Dindigul District.
3. The Inspector of Police,
CBCID,
Dindigul,
Dindigul District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.A.THIRUVADIKUMAR, Advocate in SR.No.60963

RMK
RJ/RP/SAR-3/20/07/2018 - 3P/6C

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