



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.02.2018

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CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P. (MD) No.23389 of 2016

Dr.S.Senthilkumar

: Petitioner

-Vs-

1. The State represented by
The Inspector of Police,
District Crime Branch,
Thanjavur.

2. M.Kesavan,
The District Educational Officer,
O/o. The District Educational Office,
Thanjavur.

3. Central Bureau of Investigation,
Shastri Nagar,
Adyar,
Chennai-600 020.

: Respondents

PRAYER: Petition is filed under Section 482 of the Criminal Procedure Code praying to pass an order to change the Investigating Agency with respect to Crime No.14 of 2016 of the District Crime Branch, Thanjavur, to Central Bureau of Investigation, Shastri Nagar, Adyar, Chennai-600 020, third respondent herein.

For Petitioner : Mr.S.K.Mani

For Respondent No.1 : Mrs.S.Bharathi,
Government Advocate (Crl.side)

For Respondent No.2 : No Appearance

For Respondent No.3 : Mr.N.Nagendran,
Special Public Prosecutor

for CBI Cases



O R D E R

The petitioner is said to have given a complaint to the District Educational Officer and to the Chief Minister's Special Cell making allegations against the Management of Uma Maheswara Higher Secondary School, Karanthai, Thanjavur, an hundred percent Aided School. However, on the complaint lodged by Mr.Kesavan, District Educational Officer, Thanjavur, the District Crime Branch has registered a case in Crime No.14 of 2016 on 02.07.2016 under Sections 406, 409, 465, 468, 471, 477A, 420, 120-B and 34 of the Indian Penal Code against Sundaravadhanam (A-1) and Sadhasivam (A-2). While so, the petitioner has filed the present application for transferring the case in Crime No.14 of 2016 to the Central Bureau of Investigation on the ground that the police investigation is very shoddy.

2. Today, Mr.G.Imayavaramban, Inspector of Police, District Crime Branch, Thanjavur, is present. He has filed a status report narrating the steps that have been taken by him to collect all the relevant documents from the Office of the District Educational Officer and from the Management of Uma Maheswara Higher Secondary School. It is also seen that the Investigating Officer has recorded the statements of 11 witnesses so far and in the status report, it is stated that they have to examine 12 more witnesses for completing the investigation and securing certain documents.

3. It is the grievance of the petitioner that the police have not been able to secure the attendance register of the School and the Board Resolutions passed by the School Committee and, therefore, suitable directions have to be given to the respondent police to effect seizure of the same.

4. In the opinion of this Court, such directions cannot be issued in exercise of the powers under Section 482 of the Code of Criminal Procedure, because, this Court has no jurisdiction to tell the Investigating Officer as to how he should investigate the case. It is always open to the Investigating Officer to conduct search and seizure for recovering the documents, if they are essential for the purpose of the case.

5. In **State of West Bengal v. Committee For Protection of Democratic Rights [2010(3) SCC 571]**, the Supreme Court in Paragraph No.70 has held as follows:

"Before parting with the case, we deem it necessary to emphasise that despite wide powers conferred by Articles 32 and 226 of the Constitution, while passing any order, the Courts must bear in mind certain self-imposed limitations on the exercise of these constitutional powers. The very plenitude of the power under the said articles requires great caution in its exercise. Insofar as the question of issuing a direction to CBI to conduct investigation in a



case is concerned, although no inflexible guidelines can be laid down to decide whether or not such power should be exercised but time and again it has been reiterated that such an order is not to be passed as a matter of routine or merely because a party has levelled some allegations against the local police. This extraordinary power must be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility and instil confidence in investigations or where the incident may have national and international ramifications or where such an order may be necessary for doing complete justice and enforcing the fundamental rights. Otherwise CBI would be flooded with a large number of cases and with limited resources, may find it difficult to properly investigate even serious cases and in the process lose its credibility and purpose with unsatisfactory investigations."

6. In view of the above judgment, this Court is of the view that this is not a fit case to order for transferring the investigation in Crime No.14 of 2016 to Central Bureau of Investigation and it will serve the interest of justice, if the Deputy Superintendent of Police (District Crime Branch), Thanjavur District, is directed to monitor the investigation in District Crime Branch Crime No.14 of 2016 and complete the same expeditiously.

7. In the result, this Criminal Original Petition is dismissed. However, the Deputy Superintendent of Police (District Crime Branch), Thanjavur District, is directed to monitor the investigation in District Crime Branch Crime No.14 of 2016 and complete the same expeditiously.

Sd/-

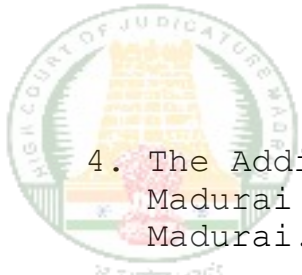
Assistant Registrar(AE)

/True Copy/

Sub Assistant Registrar

To

1. The Inspector of Police,
District Crime Branch,
Thanjavur.
2. The Deputy Superintendant of Police
(District Crime Branch)
Thanjavur District.
3. The Central Bureau of Investigation,
<https://hcservices.ecourts.gov.in/hcservices/>
Shastri Nagar,
Adyar, Chennai-600 020.



4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

5. The Special Public Prosecutor for CBI Cases,
Madurai Bench of Madras High Court,
Madurai.

sml

MV:GT:SAR3:12/03/2018/4P/6C

Order made in

Cr1.O.P. (MD) No.23389 of 2016

Dated: **22.02.2018**