



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

CRL.O.P. (MD) No.11595 of 2018

WEB COPY

- 1.Chandran
- 2.Ramesh @ Karuppu Ramesh
- 3.Muthulakshmi

...Petitioners/
Accused Nos.1 to 3

Vs.

- 1.The Director General of Police,
O/o.Director General of Police,
Beach Road, Chennai.
- 2.The Superintendent of Police,
O/o.Superintendent of Police,
Sivagangai District.
- 3.The Superintendent of Police,
O/o.Superintendent of Police,
CBCID Camp,
Sivagangai District.
- 4.The Inspector of Police,
CBCID,
Sivagangai.
- 5.The Inspector of Police,
Sivagangai Town Police Station,
Sivagangai,
(Crime No.799 of 2017).

.. Respondents

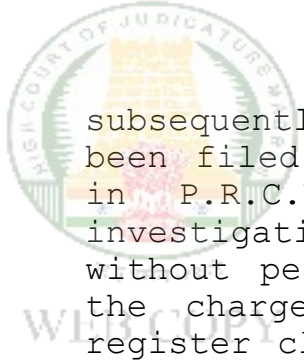
Petition is filed under Section 482 of the Criminal Procedure Code to direct the respondent No.1 to transfer the investigation of the case in Crime No.799 of 2017 from the Respondent No.5 to Respondent No.4.

For Petitioner : Mr.S.M.A.Jinnah,
For Respondents : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl.side)

O R D E R

This petition has been filed to direct the first respondent to transfer the investigation of the case in Crime No.799 of 2017 from the fifth respondent to fourth respondent.

2.According to the petitioner, a case has been registered against the petitioners in Cr.No.799 of 2017 dated 05.10.2017 and



subsequently, investigation has been completed and charge-sheet has been filed before the learned Judicial Magistrate No.I, Sivagangai in P.R.C.No.4 of 2018. He further submitted that in the investigation an important vital material was totally suppressed and without perusing the accident register, the fifth respondent laid the charge-sheet. The version of the deceased in the accident register clearly shows that the petitioners did not involve in the occurrence. The petitioner apprehends that there would not be any fair enquiry in this case by the fifth respondent. Hence, the petitioner has filed the present petition before this Court to transfer the investigation in Cr.No.799 of 2017 from file of the fifth respondent to the file of fourth respondent herein.

3. The learned Government Advocate (Crl.side) 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 Crl.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."

4.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 Crl.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. "



5. 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.

Sd/-

Assistant Registrar (T & P)

/True copy/

Sub Assistant Registrar (CS III)

To

1. The Judicial Magistrate No. I, Sivagangai.
2. The Director General of Police,
Beach Road, Chennai.
3. The Superintendent of Police,
Sivagangai District.
4. The Superintendent of Police,
CBCID Camp,
Sivagangai District.
5. The Inspector of Police,
CBCID, Sivagangai.
6. The Inspector of Police,
Sivagangai Town Police Station,
Sivagangai.
7. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

1cc to MR S.M.A.JINNAH, ADVOCATE SR 72916

CRL.O.P. (MD) No.11595 of 2018

11.07.2018

am

JM/SKN RSK/SAR 3/07.08.2018/3P/9C