



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 28.08.2018
CORAM
THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD) No.15268 of 2018
and
Crl.M.P.(MD) No.6741 of 2018

Dharmaraj

...Petitioner

-Vs-

- 1.The State of Tamil nadu
represented by
The Superintendent of Police,
Sivagangai District.
- 2.The Inspector of Police,
PEW,
Sivagangai District.
Crime No.714 of 2018
- 3.The Deputy Superintendent of Police,
CBCID Office,
Sivagangai District.

... Respondents

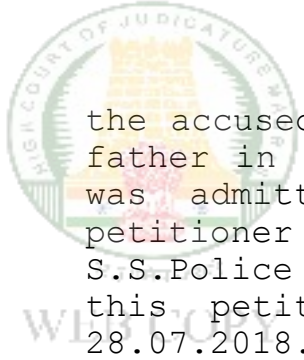
Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to withdraw the case in Crime No.714 of 2018 on the file of the second respondent and entrust the same to the respondent 3 for investigation of the case by the competent officer and file a final report before the jurisdictional Magistrate within the time stipulated by this Court.

For Petitioner : Mr.R.Venkatesan
For Respondents : MS.S.Bharathi
Government Advocate

ORDER

This criminal original petition has been filed to transfer the investigation of Crime No.714 of 2018, which is presently pending investigation before the second respondent.

2.The learned counsel for the petitioner would submit that the petitioner's father in law was attacked by one Chinnamani and a complaint was given before the S.S.Kottai Police Station and a FIR was registered in Crime No.42 of 2018 for an offence under Sections 341, 294(b), 323 and 506(i) IPC as against the said Chinnamani. Since this case was not investigated properly, the petitioner went to the concerned police station and questioned the police as to why



the accused persons were not arrested in spite of the fact that the father in law was attacked and he sustained grievous injuries and was admitted to the hospital. The learned counsel for the petitioner would submit that the police on being questioned at S.S.Police Station illegally detained the petitioner and ultimately this petitioner was handed over to the second respondent on 28.07.2018.

3.The learned counsel for the petitioner would further submit that after he was handed over to the second respondent, the second respondent has roped in the petitioner in another case in Crime No.714 of 2018, which was registered on 29.07.2018 and the petitioner was arrested and remanded to judicial custody in this case. The learned counsel for the petitioner would submit that this case was originally registered against one Ranjith and the petitioner was not an accused in this case. However, the second respondent has roped in the petitioner as an accused based on the confession given by the said Ranjith and another accused persons. The learned counsel for the petitioner would further submit that a representation was made to the first respondent by the wife of the petitioner along with the villagers belonging to that area for the purpose of withdrawing the false case and also to take action against the persons against whom the case is pending in Crime No. 42 of 2018. In spite of the receipt of the representation, no action has been taken by the first respondent and therefore the present petition has been filed to transfer the investigation.

4.The learned Government Advocate for the respondents would submit that it is true that the FIR was registered in Crime No.714 of 2018 on 29.07.2018 as against one Ranjith. The said Ranjith was arrested along with one other accused person, Kanagaraj and both the accused persons gave confession statements to the effect that illicit liquor was purchased and sold in the market only through the petitioner herein and therefore, based on the said confession, the petitioner was also made as an accused and the petitioner was remanded to judicial custody. The second respondent police is proceeding to investigate the said offence. The learned Government Advocate would further submit that this case has nothing to do with the FIR that is pending on the file of the S.S.Kottai Police Station.

5.This Court has carefully considered the submissions made on either side. It is seen from the records that the petitioner is trying to connect two different crimes, which have been registered in two different FIRs, for which the cause of action is completely different. The case in which the petitioner has been made an accused in Crime No.714 of 2018 is investigated by the second respondent and the petitioner has been made an accused based on the confession given by the co-accused. During the course of investigation, the police is entitled to add any person as an accused based on confession and proceed further with the investigation in order to gather more materials. Therefore, at this



point of time, the second respondent cannot be faulted with for adding the petitioner as an accused in Crime No.714 of 2018. Therefore, this Court does not find any ground to transfer the investigation in Crime No.714 of 2018.

6.If the petitioner has any grievance with regard to the manner in which in Crime No.42 of 2018, is being investigated, the person, who gave the complaint will have to seek for the necessary relief in accordance with law and the inaction on the part of the police in Crime No.42 of 2018 cannot be made as a ground to transfer the investigation in the present case, which has absolutely no connection with the earlier case.

7.Accordingly, this criminal original petition is disposed of. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar(CS-I)

To

- 1.The Superintendent of Police,
Sivagangai District.
- 2.The Inspector of Police, PEW,
Sivagangai District.
- 3.The Deputy Superintendent of Police,
CBCID Office,
Sivagangai District.

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28.08.2018

MM

ES/SLN/RSK/SAR 1/26.09.2018/3P/4C