



WEB COPY

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.02.2018

CORAM :

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

WP (MD) No.4229 of 2013

and

M.P. (MD) .No.2 of 2013

1.Vijukumar

... Petitioner

Vs.

1.The State of Tamil Nadu
represented by its
Inspector of Police,
Thuckalay Police Station,
Thuckalay,
Kanyakumari District.

2.The Superintendent of Police,
Kanyakumari District,
Nagercoil.

3.Joseph Cyril
Inspector of Police,
Thuckalay Police Station,
Thuckalay,
Kanyakumari District.

4.Arjunan
Sub Inspector of Police,
Thuckalay Police Station,
Thuckalay,
Kanyakumari District.

5.Sankar
Sub Inspector of Police,
Thuckalay Police Station,
Thuckalay,
Kanyakumari District.

... Respondents

Petition filed under Article 226 Constitution of India to issue a Writ of Mandamus, directing the respondents to transfer the investigation of the case in Cr.No.19 of 2013 from the file of Thuckalay Police Station to some consider independent agency or officer.

For Petitioner : Mr.N.Dilip Kumar

For R1 & R2 : Mr.M.Rajarajan

Government Advocate

<https://hcservices.ecourts.gov.in/hcservices/>

For R3 to R5 : No appearance



ORDER

The writ petition has been filed seeking a direction to the respondents to transfer the investigation of the case in Cr.No.19 of 2013 from the file of Thuckalay Police Station to some consider independent agency or officer.

2.The petitioner is an accused in Cr.No.19 of 2013 for the offences under Sections 294(b), 353, 307 IPC r/w Sections 3, 4(1A), 21(4A) of Mines and Minerals (Rand D) 1957 and Section 23(c)33(A) of Tamil Nadu Construction Rules of 1957.

3.The present writ petition has been filed on the ground that a criminal case has been filed against the petitioner only with a malafide intention. The respondent police has foisted a false case against the petitioner. According to the petitioner, even though the alleged occurrence has taken place on 08.01.2013 at 11 hours and the FIR was registered only at 13 hours and the FIR has reached the Court of the learned Judicial Magistrate, Padmanabhapuram on 10.01.2013, which clearly shows the malafide intention of the respondent police. Apprehending that a fair investigation will not be conducted by the respondent police, since the petitioner also made a serious allegation against the respondent police, the investigation is to be transferred to some other agency.

4.I have considered the rival submissions made on either side and also perused the materials placed on record.

5.First of all the petitioner is an accused, who has no right to sought for transfer of investigation. Apart from that, a perusal of the affidavit filed in support of this petition it is seen that there is no serious allegation that the investigation was not done properly. Unless there is a genuine apprehension of any improper investigation by the investigating authority, the transfer of investigation to some other agency cannot be granted. Merely because some delay in filing complaint and sending FIR to Court is not the ground for transfer the investigation.

4.In view of the above, I find no merit in this writ petition, this writ petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is also closed.

Sd/

Assistant Registrar (CS-III)

/True copy/

Sub Assistant Registrar

To

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Kanyakumari District.

+1cc to Mr.N.DILIP KUMAR, Advocate, SR.No. 46834
+1cc to M/s.Special Government Pleader,SR.No.47275

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NS
KK/JC/27.03.2018/SAR-1/3P-8C