

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2019

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

CrI.O.P.No.1506 of 2019
and
CrI.M.P.No.975 of 2019

1.D.Kumar

2.D.Baskaran

3.C.Rajendra Raju

...Petitioners/Defacto Complainant/Victim

Vs.

1.The Commissioner of Police,
Office of the Commissioner of Police,
E.V.K.Sampath salai,
Chennai - 600 007.

2.The Joint Director & Head of the Zone,
Central Bureau of Investigation (CBI),
III Floor, E.V.K.Sampath Building,
College Road, Chennai - 600 006.

3.The Additional Director General of Police,
(Economic offences Wing),
SIDCO, Old Corporate Building,
1st Floor, Garment Complex - II,
Guindy, Chennai - 600 032.

4.The Superintendent of Police,
Economic offences Wing,
Guindy, Chennai - 600 032.

5.The Inspector of Police,
Economic Offences Wing - I,
Chennai.

... Respondents/Complainants

PRAYER: Criminal Original Petition filed under Section 482 of the Cr.P.C., praying to direct the third respondent herein to withdraw the case in Crime No.2 of 2016 on the file of the Inspector of Police, Economic Offences Wing - I, Chennai dated

03.03.2016, the fifth respondent herein and transfer the same to second respondent for investigation and file final report within a reasonable time.

For Petitioners : Mr.T.Padmanabhan

For Respondents : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

O R D E R

This petition has been filed seeking to transfer the investigation, which is now pending before the fifth respondent in Crime No.2 of 2016, to the file of the CBI.

2. The learned counsel for the petitioner submitted that already connected cases were transferred to CBI by this Court by an order dated 11.09.2018 made in Crl.O.P(MD)Nos.10036 and 11021 of 2016. The learned counsel submitted that the present case, which ought to have been transferred to CBI was not transferred, since there was no specific order passed by this Court.

3. The learned Additional Public Prosecutor on instructions, would submit that since the connected cases have already been transferred to CBI, this case also may be transferred to CBI.

4. The relevant portion of the Judgment passed by this Court in Crl.O.P.(MD) No.10036 and 11021 of 2016 dated 11.09.2018, is extracted hereunder:

"5. Various complaints were given before the respondent police and the same resulted in registering FIRs in Crime No.64 of 2015 at District Crime Branch, Madurai and Crime No.1 of 2016 on the file of the Economic offences Wing II, Madurai District. Even though the FIRs were registered in the year 2015 and 2016, the respondent police were not able to secure even one accused person in this case. Already a preliminary report has been filed in Crime No.1 of 2016 before the Sub Court for TANPID cases on 24.07.2018.

6. The learned counsel for the petitioners also brought to the notice of this Court the order passed by the High Court of Madhya Pradesh in Dharmvir Singh and another Vs. Union of India and others. In the said case, the very same company was involved in cheating several depositors and taking into consideration the

magnitude of the offence, the High Court of Madhya Pradesh by an order dated 05.07.2011 was pleased to direct the investigation to be transferred to the file of CBI.

7. It is seen from the records that this case has inter state ramifications and also fraud has been committed across different States. The accused persons, who are said to be living in Delhi, have not even been arrested by the respondent police for the past two years.

8. The learned Government Advocate (Crl.Side) for the State would submit that they are getting fresh complaints every day in this matter and the Deputy Superintendent of Police of the Economic Offences Wing, is investigating the matter and since the amount involved is huge and also there are several complainants involved in this case, the investigating officer is trying to effectively conduct the investigation. In fact the investigating officer also filed a preliminary report before this Court on 24.07.2018.

9. This Court has taken into consideration the submissions made on either side and also the records placed before this Court.

10. It is seen that the accused persons belong to North India. The company in question has head office at Madhya Pradesh. It is also seen that the accused persons were not only involved in committing the offence in Tamil Nadu but had committing similar offence in Northern States also. This case also involves inter state ramifications and it will be more appropriate if an agency, which could have a national reach across the Country will be able to effectively investigate the case.

11. Magnitude of the problem is also very high since it involves lakhs of investors, who have been cheated to several crores of rupees. Even though the respondent police is trying their best to investigate the case, in view of the inter state conspiracy and in view of the fact that the accused persons belong to a different State, they will have their own limitation in investigating the case. This

Court has also taken into consideration, the orders passed by the High Court of Madhya Pradesh, wherein, for the very same accused persons and the company, the High Court of Madhya Pradesh directed the investigation to be taken up by the CBI.

12. In the facts and circumstances of the case, this Court deems it fit to transfer the investigation in this case to the file of the CBI. The Deputy Superintendent of Police, Economic Offences Wing II, is directed to hand over the entire case diary to the second respondent namely, the Joint Director and Head of the Zone, Central Bureau of Investigation (CBI), within a period of one month from the date of receipt of a copy of this order. The Joint Director and Head of the Zone, Central Bureau of Investigation (CBI), shall immediately assign the task of investigation to the senior officer of CBI. Since the CBI is already involved in the investigation insofar as the connected cases arising from Madhya Pradesh, the officer, to whom the case is assigned shall also co-ordinate with the officer, who are already conducting the investigation pursuant to the orders of the High Court of Madhya Pradesh.

13. This case involves the interest of lakhs of innocent depositors, who have lost their hard earned money. The accused persons having cheated such a large number of people and are moving around freely without any effective action being taken against them. This Court reposes its confidence on the CBI to immediately take up the investigation and bring the accused persons to book and try to recover the amount in order to distribute it to the innocent depositors.

14. Since this case involves the interest of large number of people who had made their deposits, this Court in order to ensure that the investigation proceeds in the right direction wants to keep these criminal original petitions pending. The officer, to whom the case is assigned by the CBI shall file a status report before this court once in a three months."

The present case also is related with the very same dispute, therefore in the interest of justice, this case should also be

transferred to the CBI to be investigated along with other cases.

5. In the result, the third respondent namely the Additional Director General of Police, (Economic offences Wing), SIDCO, Old Corporate Building, 1st Floor, Garment Complex - II, Guindy, Chennai - 600 032, is directed to handover the entire case dairy to the second respondent namely the Joint Director & Head of the Zone, Central Bureau of Investigation (CBI), III Floor, E.V.K.Sampath Building, College Road, Chennai - 600 006. The second respondent shall immediately assign the task of investigation in this case also, to the concerned Officer of CBI, who is already investigating connected cases.

6. The above case is kept pending by this Court in order to monitor the progress made in the case by directing the CBI to file a status report. The CBI is directed to file a Status report before the Madurai Bench of Madras High Court, as directed in CrI.O.P.(MD) No.10036 and 11021 of 2016 dated 11.09.2018, by including this case also in the status report.

7. Accordingly, this Criminal Original Petition stands disposed of. Consequently, connected miscellaneous petition is closed.

nmm/dss

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The Commissioner of Police,
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E.V.K.Sampath salai,
Chennai - 600 007.
- 2.The Joint Director & Head of the Zone,
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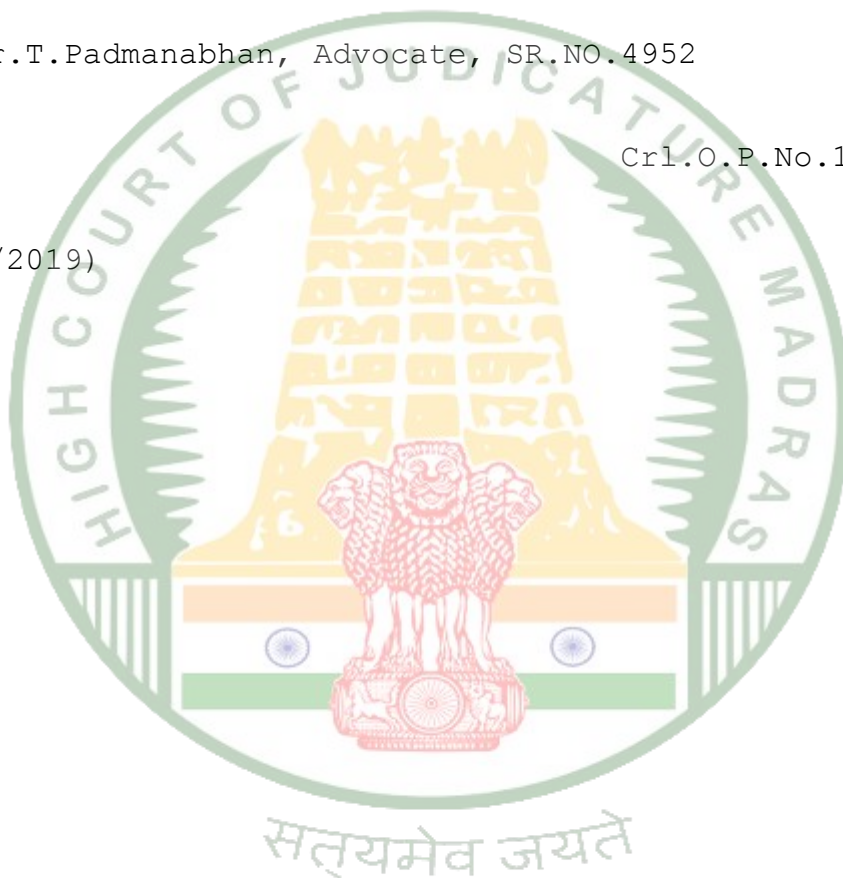
5.The Inspector of Police,
Economic Offences Wing - I,
Chennai.

6.The Public Prosecutor,
Madras High Court, Chennai.

+1cc To Mr.T.Padmanabhan, Advocate, SR.NO.4952

Cr1.O.P.No.1506 of 2019

rji(CO)
kak(28/01/2019)



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