

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :22.08.2019

CORAM

THE HONOURABLE Mr.JUSTICE N. ANAND VENKATESH

Crl.O.P.No.1501 of 2019
and Crl.M.P.No.960 of 2019

R.Sivakumar

... Petitioner

Vs.

1.The Director General of Police,
Kamarajar Salai,
Mylapore,
Chennai - 600 004.

2.The Additional Director General of Police,
CBCID,
Pantheon Road,
Egmore,
Chennai - 600 008.

3.The Deputy Superintendent of Police,
CBCID Head Quarters,
Metro - Chennai,
Crime No.12 of 2017,
Chennai City.

4.The Joint Director,
Central Bureau of Investigation,
Shastri Bhavan,
Chennai - 600 006.

5.R.Udaya Kumar
(5th respondent impleaded as per order in
Crl.M.P.No.3126 of 2019 dated 28.02.2019)

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, praying to withdraw the investigation in Crime No.12 of 2017 from the 3rd respondent and to transfer the same to the 4th respondent for fair and de nova investigation.

For Petitioner : Mr.N.Manoharan

For Respondent : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor
for R1 to R4
Mr.Ramakrishnan for R5

O R D E R

This petition has been filed seeking for transfer of investigation, which is now pending on the file of the CBCID, Chennai.

2. Initially, an FIR was registered, pursuant to the direction issued by this Court in Crl.O.P.No.16804 of 2015, by the Central Crime Branch, Chennai. A petition was filed before this Court in Crl.O.P.No.11576 of 2017, seeking for transfer of the investigation from the file of the Central Crime Branch to some other agency. This Court on considering the grounds raised by the petitioner, allowed the petition by an order dated 14.07.2017 and transferred the investigation to the CBCID, Chennai.

3. In view of the above order, the investigation was transferred to the file of CBCID, Chennai and it was taken on file in Crime No.12 of 2017 and the investigation was conducted de nova by the CBCID, Chennai.

4. The present petition has been filed by the petitioner, who is the defacto complainant to transfer the investigation from the file of the CBCID to the file of CBI, in order to conduct the de nova investigation. The main ground that has been raised in the petition seeking for transfer of investigation is that the Investigating Officer was initially working under the accused person, who is a retired Deputy Superintendent of Police. Therefore, there is an apprehension in the mind of the petitioner that the investigation will not be conducted in a proper manner and that there is a collusion between the accused and the Investigating Officer. Further, grievance of the petitioner is that there has been absolutely no progress in the investigation, even after the investigation was transferred to the file of CBCID.

5. When the matter came up before this Court, this Court directed the 3rd respondent to continue further with the investigation and directed him to submit a report in a sealed cover along with the case diary. After the completion of the investigation, the entire case diary along with the investigation report was submitted before this Court in a sealed cover on 07.08.2019.

6. This Court went through the entire case diary and also the report filed by the 3rd respondent. This Court was not able to find any apparent illegality in the investigation conducted by the 3rd respondent and it was seen that the 3rd respondent had gone into all the aspects of the case and has relied upon various materials to arrive at his conclusions.

7. The relief of transferring of investigation should not be resorted in a casual manner since it has an impact on the Reputation of the Officer/Agency conducting the investigation. The Hon'ble Supreme Court has made it very clear that while exercising of its jurisdiction under Section 482 of Cr.P.C, this Court, cannot pass orders in a casual manner by transferring investigation unless, this Court finds any apparent illegality in the manner in which the investigation is conducted.

8. This Court had carefully gone through the entire materials that was submitted in the sealed cover and was not able to find any apparent illegality. Therefore, this Court is not inclined to transfer the investigation as was sought for by the petitioner.

9. In view of the above, the 3rd respondent is directed to file a final report before the concerned Court, within a period of four weeks from the date of receipt of copy of this order. If in case, 3rd respondent files any closure report, necessary notice shall be issued to the petitioner to enable the petitioner to file a protest petition before the concerned Court and workout his remedy in accordance with law.

10. Accordingly, this petition is disposed of with the above direction. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Insp cell)

//True Copy//

Sub Assistant Registrar

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To

1.The Director General of Police,
Kamarajar Salai,
Mylapore,
Chennai - 600 004.

WEB COPY

2.The Additional Director General of Police,
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3.The Deputy Superintendent of Police,
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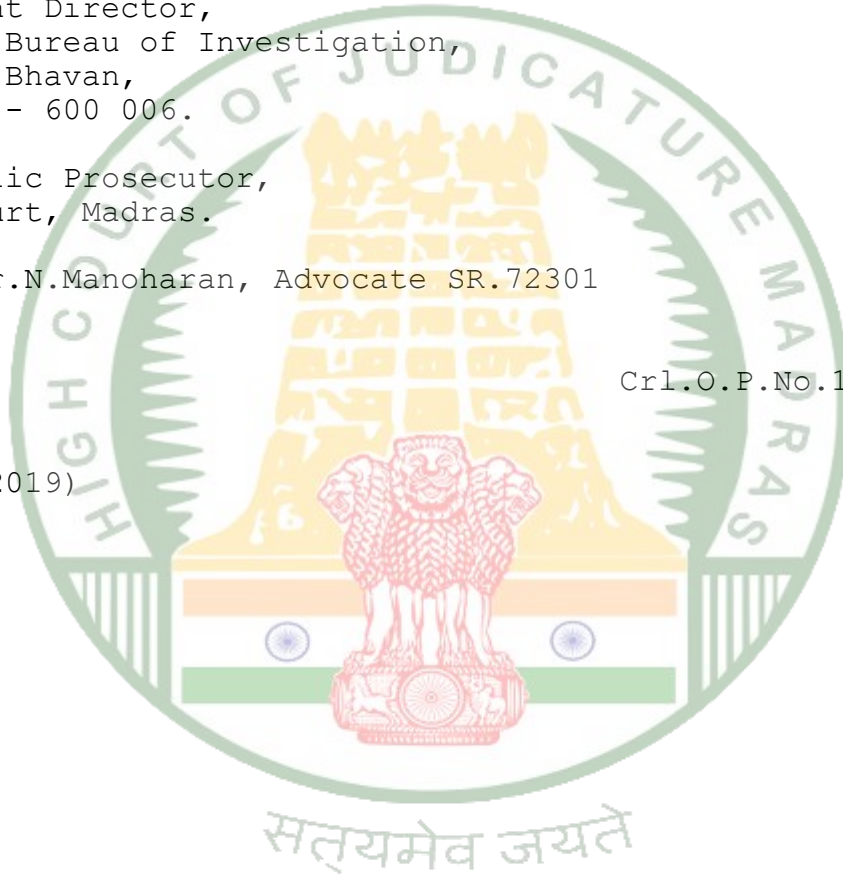
4.The Joint Director,
Central Bureau of Investigation,
Shastri Bhavan,
Chennai - 600 006.

5.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.N.Manoharan, Advocate SR.72301

Crl.O.P.No.1501 of 2019

CNR(CO)
CB(10/10/2019)



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