

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2019

CORAM

THE HON'BLE MR. JUSTICE R.MAHADEVAN
and
THE HON'BLE MR. JUSTICE P.D.AUDIKEVALU

W.P.No.3571 of 2019
and
WMP.No.3915 of 2019

S.Sakthivel ...Petitioner

Vs.

- 1.The State of Tamil Nadu
rep.by Secretary to Government,
Home Department,
Fort St. George,
Chennai - 600 009.
- 2.The Special Officer,
Idol Wing,
Thiru Vi.Ka.Industrial Estate,
Alandur Road, Guindy,
Chennai - 600 032.
- 3.Archaeological Survey of India,
rep.by its Director,
Fort St. George,
Chennai - 600 009.
- 4.The Inspector of Police,
Idol Wing CID Police,
Guindy Industrial Estate,
Chennai - 600 032.
- 5.Central Bureau of Investigation
rep.by its Director,
Plot No.5B, 6th Floor, GCO Complex,
Lodhi Road, Jawaharlal Nehru Sadium Marg,
New Delhi- 110 003.
- 6.Central Bureau of Investigation,
rep.by its Joint Director,
College Road, Nungambakkam,
Chennai - 600 034.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a writ of Mandamus directing the fourth respondent to send the Statue forms part and subject matter of Crime No.6/2018 on the file of the fourth respondent to the third respondent to investigate, enquire and verify the Amman Statue with Thali respect of its age, antique nature, specify the metals out of which the statue was made and the place where from it was stolen and to submit a report before this Court, failing which, transfer the investigation from the file of respondents 2 and 4 to respondents 5 and 6 to proceed with the crime bearing No.6/2018.

For Petitioner : Mr.T.Babu
For R1 : Mr.J.Ramesh, AGP
For R2 & R4 : Mrs.S.Thankira, GA (Crl.Side)
For R3 : Mr.G.Karthikeyan,
Asst.Solicitor General of India

ORDER

The petitioner, who is arrayed as one of the accused in Crime No.6 of 2018 on the file of the fourth respondent police, has come up with this writ petition, seeking a direction to the fourth respondent to send the Amman statue along with Thali, which is the subject matter of the aforesaid case, to the third respondent and call for a report with regard to its age, antique nature, specify the metals out of which it was made and other details, failing which, transfer the investigation of the case from the file of the respondents 2 and 4 to the respondents 5 and 6.

2.It is the case of the petitioner that he is conducting the business of selling tender coconut at Door No.6/135, Arcot Road, Karampakkam, Porur, Chennai-116 for the past 8 years. During the month of May 2017, he got an Amman statue from one Saravanan, who purchased the same from one J.P.Deenadayalan at the cost of Rs.3,000/- and kept it in his house. Thereafter, on 05.08.2018, at the request of one Yaganathan and Mani, the petitioner transported the same in a Nano Car, which was intercepted by the second respondent police and a search was made and thereafter, he was arrested in connection with Cr.No.6/2018 registered for the offences punishable under Sections 454 (2), 457(2) and 380(2) IPC and remanded to judicial custody. Subsequently, he was released on bail, vide order dated 06.10.2018 passed by the Additional Chief Judicial Magistrate, Kumbakonam in Crl.MP.No.971 of 2018. According to the petitioner, the subject matter of the case in Cr.No.6/2018 viz., Amman statue, was not made out of Panchaloga metals, however, it was described as Panchaloga

idol, in the FIR, without conducting proper verification or test by the competent authorities. Hence, he submitted a representation dated 18.01.2019 to the respondents 2 and 4 to send the statue to the third respondent for verification. Finding no response on the said representation, the petitioner is before this Court with the present writ petition for the aforesaid relief.

3.The learned counsel for the petitioner submitted that the petitioner is innocent and he has nothing to do with the alleged offence. The learned counsel further submitted that the said statue, which was stated to have been stolen, is not a valuable one as projected by the prosecution and that is why the second respondent has not proceeded further, after registration of the FIR on 06.08.2018. Hence, it is just and necessary to send the statue in question to the third respondent, to ascertain its age, nature and other details, so as to enable the petitioner to substantiate his stand.

4.The submission so made by the learned counsel for the petitioner was seriously opposed by the learned Government Advocate (Crl.Side) appearing for the respondents 2 and 4. According to her, the respondent police has been conducting the investigation with regard to Cr.No.6/2018.

5.Further, the learned counsel for the third respondent produced a copy of the communication dated 25.01.2019 sent by the Regional Director (South) & Authorized Nominee of DG ASI to the Deputy Superintendent of Police, Idol Wing CID, IGP's Special Camp Office, Guindy, Chennai, to the effect that the idol, which is the subject matter of the case in Cr.No.6/2018, is an antiquity. The relevant passage of the said communication is usefully extracted hereunder:

"Consequent to the authorization of the Director General vide her Authorization Order Nos.45/T-11012/15/2018-O/o.Dir (Ant) dt. 02.08.2018 & 07.08.2018 in (F.Nos.11012/15/2018-O/o.Dir (Ant) -144 & 145 dt. 07.08.2018 & 13.08.2018 respectively) and subsequent meeting held on October 11, 2018, at Pasupatheeswavar Temple, Panthanallur (Near Kumbakonam) Tamil Nadu, as per the provisions under Section 24 of the Antiquities and Art Treasures Act 1972, the following are the decision of the committee in respect of objects presented before the committee.

S.No.	Cr.No.	Name of the Idol	Height (cm.)	Width (cm.)	Weight (kg)	Material	Decision
1	06/2018	Amman	40	28	20.560	Bronze	ANTIQUITY
		Thiruvacchi	51	35			

6.This Court is of the opinion that in view of the aforesaid communication, the prayer made by the petitioner has been met and hence, no further order needs to be passed in this writ petition.

7.Recording the aforesaid communication of the third respondent dated 25.01.2019, this writ petition stands closed, with a direction to the respondent Idol Wing to proceed with the case, as per law. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

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To

1.The State of Tamil Nadu
rep.by Secretary to Government,
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2.The Special Officer,
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Thiru Vi.Ka.Industrial Estate,
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+1cc to Mr. T. Babu , Advocate SR.No. 14176

W.P.No.3571 of 2019

A.SK(29/03/2019)



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