



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 20.06.2019

CORAM
THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.7905 of 2018
and
Cont.P.No.941 of 2018

S.Kavitha ... Petitioner in both petitions

-Vs-

1.The State,
Rep. by Superintendent of Police,
Tirupur-District.

2.The State,
Rep.by Inspector of Police,
Central Police Station,
Tirupur -District.

... Respondents in
Crl.O.P.No.7905 of 2018

3.Mr.S.Thennarasan
The State Rep. by Inspector of Police,
South Police Station,
Tirupur -District.

... Respondent in
Cont.P.No.941 of 2018

Prayer in Crl.O.P.No.7905 of 2018: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to direct the respondents police to transfer the entire investigation in Crime No.133 of 2014 on the file of the 2nd respondent police to the Inspector, Central Bureau of Investigation, Tirupur or the Inspector, CBCID/Crime Investigation Department, Tirupur Division, Tirupur or any other Independent agency and further directing them to taken on file and to reinvestigate the same in accordance with the law.

Prayer in Cont.P.No.941 of 2018 : Contempt Petition filed under Section 11 of the Contempt Act 1971, to punish the respondent for disobeying the order made by this Court dated 03.02.2016 in Crl.O.P.No.1601 of 2016.

For Petitioner : Mr.N.R.Elango
(In both petitions) Senior Counsel
for Mr.Ma.Pa.Thangavel

For Respondents : Mr.M.Mohamed Riyaz
(In both petitions)
Additional Public Prosecutor



COMMON ORDER

The contempt petition has been filed, complaining about the non compliance of the order passed by this Court in Crl.O.P.No.1601 of 2016 dated 03.02.2016, wherein the respondent police was directed to complete the investigation and file a final report within a period of three months and that the same has not been complied with till date.

2.Crl.O.P.No. 7905 of 2018, has been filed seeking for transfer of investigation in Crime No.133 of 2014 pending before the second respondent police.

3.This Court is taking up both the petitions and passing a common order since in both the cases, the petitioner is the defacto complainant and the nature of dispute is almost the same.

4.The subject matter of Crl.O.P.No.7905 of 2018 is Crime No.133 of 2014, which was registered by the second respondent based on the complaint given by the petitioner. It is seen from records that that the observation Mahazar, rough sketch and 161 statement from five witnesses have all been taken on 10.11.2014 and the closure report has also been filed on the same date. This is one of those rare cases where the FIR has culminated into a closure report on the same date.

5.That apart, even though it was claimed that RCS notice was served on the petitioner and the closure report was filed before the Court, when a copy application was filed before the Court below, the same was returned on the ground that even the FIR has not been received by the Court.

6.Mr.N.R.Elango, learned Senior counsel appearing on behalf of the petitioner submitted that the very manner in which the investigation has been conducted, itself is a ground to transfer the investigation.

7. Insofar as the contempt petition No.941 of 2016 is concerned, a direction was given by this Court on 03.02.2016 to the respondent police to complete the investigation and file a final report within a period of 3 months and the same has not been complied with till date. Therefore it is clear that the respondent police is not interested in proceeding further with the investigation. It is true that the respondent police has committed contempt by not complying with the order passed by this Court. However, with the attitude exhibited by the respondent, it will not be safe to continue with the investigation in the hands of the respondent police, since it is possible that an hasty investigation will be done, just for the sake of showing compliance of the orders passed by this Court.



8.The learned Additional Public Prosecutor appearing on behalf of the respondent police submitted that if this Court deems it fit to transfer the investigation in both the cases in Crime No.3851 of 2011 and in Crime No.133 of 2014 the same can be directed to be transferred to a different agency to ensure that the investigation is conducted effectively.

9.This Court is convinced that the investigation should not continue with the respondent police in both the cases and it has to be transferred to some other investigating agency in order to ensure that there is fairness in investigation.

10.In view of the above, the investigation in Crime No.3851 of 2011 and in Crime No.133 of 2014 is transferred to the file of the Inspector of Police, CBCID Thiruppur. The respondent police shall transfer the entire case diary to the Inspector of Police CBCID within a period of two weeks from the date of the receipt of the copy of this order. Immediately on receipt of the case diary, the Inspector of Police, CBCID Thiruppur, shall conduct a fresh investigation in both the FIR's and complete the investigation as expeditiously as possible.

11.In the result, the Criminal Original Petition No.7905 is allowed and the contempt petition No.941 of 2014 is closed with the above directions.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

tta/mpa

To

- 1.The Superintendent of Police,
Tirupur-District.
- 2.The Inspector of Police,
Central Police Station,
Tirupur -District.
- 3.The Inspector of Police,
CBCID, Tirupur.
- 4.The Public Prosecutor,
High Court,
Madras.



Copy To:

The Sub Assistant Registrar,
Original Side,
High Court,
Madras.

+1cc to Mr.P.Thangavel, Advocate, S.R.No.50705

Cr1.O.P.No.7905 of 2018
and
Cont.P.No.941 of 2018

RR (CO)

RRS (01/08/2019)