

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 11.02.2019

CORAM:
THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Cr1.O.P.No.18212 of 2018

Kapila Shree

... Petitioner

Vs.

1. State rep. By
The Inspector of Police,
District Crime Branch (DCB),
Cuddalore.

2.S.Krishnan

3.K.Venugopal

4.V.Savitha

5.The Deputy Superintendent of Police,
District Crime Branch,
Cuddalore

6.State rep.by:
The Director General of Police,
CB CID, Chennai

...Respondents

PRAYER: Criminal Original Petition filed under Section 482
Cr.P.C. praying to transfer the investigation in Crime No.3 of
2017 pending investigation on the file of the 1st respondent to
6th respondent The Director General of Police, CBCID, Chennai.

For Petitioner : Ms.Kabila Shree,
(Party in Person)

For Respondents: Mr.M.Mohamed Riyaz,
Additional Public Prosecutor
for RR1, 5 & 6

: No appearance for RR2, 3 & 4

ORDER

This petition has been filed for direction to transfer the
investigation in Crime No.3 of 2017 pending on the file of the
6th respondent, namely the Director General of Police, CB CID,
Chennai.

2. Ms.Kabila Shree, the petitioner appearing in person would submit that the complainant lodged the complaint before the first respondent alleging that the accused persons have criminally conspired together and cheated the defacto complainant and also misappropriated the property and the sale proceeding for their personal gains by deceiving and breaching the trust upon the complainant. But the first respondent refused to register the same. Therefore, the defacto complainant filed direction petition before this Court in CrI.O.P.No.6018 of 2017 and pursuant to the direction issued by this Court the first respondent registered the case as against the accused persons under Section 420 I.P.C. After registering the same, the first respondent did not even enquire the matter. Therefore, again the petitioner filed a petition to transfer the investigation from the file of the first respondent to the Director General of Police, CB CID, Chennai in CrI.O.P.No.28080 of 2017. This Court by an order dated 16.02.2018 directed the first respondent to proceed with the investigation and file a final report and such investigation shall be monitored by the District Crime Branch, Villupuram on day to day basis. Even thereafter, the first respondent did not conduct any enquiry and simply kept the complaint in cold storage. Hence, he sought for transfer of the investigation.

3. Per contra, Mr.M.Mohamed Riyaz, Additional Public Prosecutor appearing for respondents 1, 5 and 7 would submit that after direction issued by this Court in CrI.O.P.No.28080 of 2017, by an order dated 16.02.2018, the first respondent completed the investigation and enquired of the relevant witnesses and gathered documents in a free and fair manner. The entire investigation is under the guidance and personal supervision of one, Mr.Saravanan, Deputy Superintendent of Police, District Crime Branch, Villupuram District as directed by this Court and as per the proceedings of the District Superintendent of Police, Cuddalore District made in C.No.K1/15333/ 2018 dated 04.05.2018 conducted investigation and charge sheet filed before the learned Judicial Magistrate Court-I, Vridhachalam on 21.11.2018. The referred charge sheet notice was also duly served to the defacto complainant. Therefore, the question of transfer of investigation would not arise and prayed for dismissal of the petition.

4. Heard Ms.Kabila Shree, the petitioner appearing in person, and Mr.M.Mohamed Riyaz, Additional Public Prosecutor for respondent 1, 5 and 6.

5. It is seen on the direction issued by this Court in CrI.O.P.No.28080 of 2017 by an order dated 16.02.2018, the first respondent conducted enquiry under the supervision of the Deputy Superintendent of Police, District Crime Branch, Villupuram

District as directed by this Court and also on the direction issued by the Superintendent of Cuddalore District vide communicated dated 04.05.2018 bearing reference No.C.No.K1/15333/2018, the first respondent conducted enquiry and filed final report, thereby the first respondent closed the complaint as mistake of fact and referred charge sheet notice also duly served to the defacto complainant. On receipt of the same, the petitioner / defacto complainant ought to have filed protest petition in accordance with law.

6. Under these circumstances, , the prayer sought for in this direction petition has now become infructuous and prayer sought for in this petition cannot be granted now. However, considering the above facts and circumstances, the petitioner / defacto complainant is at liberty to file a fresh petition before the learned Judicial Magistrate concerned in the manner known to law and proceed further.

7. Recording the above, this Criminal Original Petition is disposed of.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,
District Crime Branch (DCB),
Cuddalore

2.The Deputy Superintendent of Police,
District Crime Branch,
Cuddalore

3.The Deputy Superintendent of Police,
District Crime Branch, Villupuram

4.The Director General of Police,
CB CID, Chennai

5.The Judicial Magistrate -I
Vridhachalam.

6.The Superintendent of Police,
Cuddalore.

7. The Public Prosecutor,
High Court of Madras.

Crl.O.P.No.18212 of 2018

rrs 15/03/2019