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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2019

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P.No.15456 of 2019

Marimuthu

...Petitioner

Vs.

1. The Superintendent of Police,
Cuddalore District,
Cuddalore.
2. The State Rep. by
The Inspector of Police,
Aladi Police Station,
Cuddalore District.
Crime No:69 of 2019.
3. Kalaiyarasan
Village Administrative Officer,
No.68, Puliur Village & Post,
Virudhachalam,
Cuddalore District.

...Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to transfer the investigation from the file of the second respondent police in crime number 69/2019 to some other competent investigation agency.

For Petitioner	: Mr.R.Thirumoorthy
For Respondents	: Mr.M.Mohamed Riyaz
	Additional Public Prosecutor
	for R1 & R2

ORDER

This petition has been filed seeking for the relief of transfer of investigation in Crime No.69 of 2019, pending on the file of the second respondent to some other competent investigation agency.



2. When this case came up for hearing on 17.06.2019, this Court, passed the following order:

This Petition has been filed seeking for transfer of application. The learned counsel for the petitioner brought to the notice of the Court that the accused persons are filed Anticipatory Bail Petition and the same was dismissed. They have been not arrested till date.

The learned counsel further submitted that the investigation is not progressed in this case and it is a case involved in illegal sand quarry.

The learned Additional Public Prosecutor seeks time to get instructions.

The second respondent is directed to file status report regarding the progress of investigation.

Post this case after two weeks.

3. When the matter was taken up for hearing on 05.07.2019, it was brought to the notice of this Court that the Investigating Officer had opposed the Anticipatory Bail Petitions filed by the accused persons. Infact, the Village Administrative Officer, who is the Defacto complainant had explained the Court, the manner in which, the accused persons are involved in illegal transporting of pebbles and red soil. Taking into consideration the seriousness of the offence and the objections made on the side of the prosecution and the Village Administrative Officer, the Anticipatory Bail Petitions were dismissed by an order dated 06.06.2019.

4. Curiously, the accused persons filed one more Anticipatory Bail Petition before the very same Court in CrI.MP.No.3513 of 2019. When the matter came up for hearing, it was represented on the side of the respondent-Police that there is no previous case against the accused persons and the prosecution is not seriously objecting to the grant of Anticipatory Bail. Recording the same, the Court below, within a period of six days from the earlier order, granted Anticipatory Bail to the accused persons.

5. Today, when the matter was taken up for hearing, the learned Additional Public Prosecutor on behalf of the respondent-Police filed the status report explaining the progress made in the investigation. A perusal of the status report reveals the fact that the Investigating Officer has examined eight witnesses and recorded their statements. In



the status report itself, it is mentioned that Anticipatory Bail Petitions filed by the accused persons were dismissed twice on 30.05.2019 and 06.06.2019. However, the accused persons had obtained the Anticipatory Bail before the Sessions Court, Cuddalore by an order dated 12.06.2019. Surprisingly, the report does not state as to what steps has been taken by the Investigating Officer to arrest the accused persons, after the earlier anticipatory bail petitions were dismissed and more particularly when the same was seriously objected and the Village Administrative Officer who had told the Court that the accused persons are repeatedly engaged in illegal transport of pebbles and red soil.

6. The status report reveals that the investigation has been completed and it has been sent to the Additional Public Prosecutor, Cuddalore, for getting legal opinion.

7. Even though, this Court is not convinced in the manner in which the Investigating Officer has dealt with the accused persons in a case which is serious in nature. In view of the fact that the investigation has now been completed, after recording the statement of nearly eight witnesses, this Court, is not inclined to interfere with the investigation at this stage. If, after the filing of the final report, there is any major discrepancy found in the investigation which will make it easy for the accused persons to get out of the case, at that point of time, it is always open to the petitioner to approach this Court, seeking for further investigation. This liberty will safeguard the right of the general public who are opposing the illegal transportation of minerals and natural resources.

8. In the result, this Criminal Original Petition is disposed of, with a direction to the second respondent-Police to file a final report, within a period of one month from the date of receipt of copy of this order before the Jurisdictional Court. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar



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To

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Cuddalore District,
Cuddalore.
2. The Inspector of Police,
Aladi Police Station,
Cuddalore District.
Crime No:69 of 2019.
3. The Village Administrative Officer,
No.68, Puliur Village & Post,
Virudhachalam,
Cuddalore District.
4. The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.R.Thirumoorthy, Advocate Sr.No. 59327

CRL.OP.No.15456 of 2019

BS (CO)
AKM/13.08.19