



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.11.2019

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR
Crl.O.P.No.33431 of 2014
and
M.P.No.1 of 2014

1.R.Subramanian
2.K.Poonusamy
3.N.Raju
4.S.Selvaraju

... Petitioners

Vs.

1.The Superintendent of Police
Namakkal District
Namakkal

2.The Inspector of Police
Namakkal District Crime Branch
Namakkal

3.The Inspector of Police
Crimes, Namakkal Police Station
Namakkal

4.The Central Bureau of Investigation
Represented by its Joint Director
Haddows Road, Shasthri Bhavan
Nungambakkam
Chennai 600 034

... Respondents

PRAYER:Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code to withdraw the investigation of the case in Crime No.43 of 2012 from the file of the 2nd respondent and transfer the same to the file of 4th respondent and direct to conduct fair, thorough and proper investigation and file final report in accordance with law.

For Petitioners : Mr.N.S.Sivakumar

For Respondents :Mrs.M.Prabhavathy, APP for R1 to R3
Mr.K.Srinivasan, Spl. P.P.(CBI) for R4



ORDER

This petition has been filed by the petitioner to withdraw the investigation of the case in Crime No.43 of 2012 from the file of the 2nd respondent and transfer the same to the file of 4th respondent and direct to conduct fair, thorough and proper investigation and file final report in accordance with law.

2.The petitioners had sent a representation, seeking to transfer the Crime No.43/2012 (DCB) Namakkal to either CBI, Chennai or to the Inspector of Police (L & O), Namakkal.

3.On a perusal of the representation, it is seen that the main contention of the petitioner and the crux of the complaint is that the Investigating Officer has not taken any action as promised to the petitioners and further it is submitted that the accused persons have colluded with the Head Post Office employees, Namakkal and further the postal department is under the control of Central Government. The appropriate investigation agency would be CBI, Chennai. Further the District Crime Branch is hesitating to make further enquiry.

4.The learned Additional Public Prosecutor filed status report on behalf of the 2nd respondent, wherein, it is submitted that the case investigation had been initiated on the complaint of G.Thilagavathy, a retired Principal in the Government Arts College, Namakkal, stating that her fixed deposit in Namakkal Post Officer was illegally withdrawn and misappropriated by the Postal Savings Agents namely Karupppannan, Matheswaran and Sathiswaran.

5.It is further seen that on completion of investigation, charge sheet came to be filed and taken on file as CC.No.111 of 2017 on 30.05.2017 and the same is pending trial before the learned Judicial Magistrate, Namakkal. It is further seen that at the time of charge framing, A4 Chitra filed a discharge petition u/s.239 of Cr.P.C. in CMP.No.7495 of 2017 and the Trial Court discharged the said Chitra, against which, the prosecution had filed a revision petition before the learned Principal District Judge, Namakkal in CMP No.1496 of 2019 and the prosecution is also taking earnest steps to punish the accused in this case.

6.It is further submitted in this case there are 20 witnesses who have been similarly cheated and their amount has been misappropriated and they have been arraigned as witnesses. The petitioners have been cited as LW6, LW9, LW7 and LW14 respectively. Now, the case is posted for trial on 06.12.2019.



7.The learned Special Public Prosecutor (CBI) submitted that as per guidelines issued by Central Vigilance Commission (CVC) amount less than 3 crores of misappropriation or cheating, the investigation to be done by the local police. If it is public servant or Central Government employee and further the amount involved is between 3 crores and 25 crores, the case would be investigated by the ACB/CBI, further if the amount involved is 25 crores or more, ACB/CBI would investigate if it pertains to Public servant for others it would be EOW/CBI.

8.In this case, though the FIR was registered for Rupees four lakhs, during investigation it was found that there is cheating and misappropriation around Rs.16 lakhs. Investigation completed, charge sheet filed. Further petitioners are listed witnesses in C.C.No.111 of 2017.

9.In view of the same, this petition, stands dismissed. The petitioners are at liberty to approach the Trial Court to address their grievance if any.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To.

1.The Superintendent of Police
Namakkal District
Namakkal

2.The Inspector of Police
Namakkal District Crime Branch
Namakkal

3.The Inspector of Police
Crimes, Namakkal Police Station
Namakkal

4.The Joint Director
The Central Bureau of Investigation
Haddows Road, Shasthri Bhavan
Nungambakkam
Chennai 600 034

5.The Public Prosecutor
High Court of Madras



6.The Section Officer
Criminal Side
High Court of Madras

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+1cc to Mr.N.S.Sivakumar , Advocate SR.No. 95356

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A.SK(20/12/2019)