

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 21.08.2019

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.OP.No.15818/2019

M.Senthilkumar
Petitioner/Complainant

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Vs

1. The State of Tamil Nadu,
rep.by its Secretary to Government,
Home Department,
Secretariat, Chennai-600 009.
- 2.The Director General of Police,
Kamarajar Salai,
Mylapore, Chennai-600 004.
- 3.The Director General of Police,
Vigilance and Anti Corruption Department,
No.293, M.K.N. Road,
Alandur, Chennai-600 016.
- 4.The Superintendent of Police (West Zone)
Vigilance and Anti Corruption Wing
No.293, M.K.N. Road,
Alandur, Chennai-600 016.
- 5.The Joint Director,
Central Bureau of Investigation,
E.V.K. Sampath Building, 3rd Floor,
College Road, Chennai-600 006.

..Respondents

Prayer:- Petition filed under section 482 Cr.P.C., to transfer the investigation or direct the Respondents 1 & 2 to withdraw the investigation on petitioner's complaint dated 26.12.2018 from the 4th Respondent and to transfer it to the 5th Respondent for fair investigation.

For Petitioner :Mr.C.D.Johnson for M/s.Prakasam

For Respondents :Mr.C.Emlias, AAG

Asst. by Mr.K.Prabakar,

APP for R1 to R4

:Mr.K.Srinivasan, Spl.PP [CBI]

for R5

ORDER

1. The petition has been filed seeking to transfer the investigation or to direct the 1st and 2nd respondents to withdraw the investigation on petitioner's complaint dated 26.12.2018 from the 4th respondent and to transfer it to the 5th respondent for fair investigation.
2. The petitioner is a resident of Namakkal District and is involved in many welfare activities. He had filed a complaint dated 26.12.2018 against one Krishnarajan, Deputy Superintendent of Police, Vigilance and Anti Corruption at Krishnakiri, who was previously working as DSP, Vigilance and Anti Corruption in Namakkal. The allegation in the complaint is that the said Krishnarajan, had amassed wealth disproportionate to known source of his income by illegal means. It had been further stated that while the above officer joined service, he was not having any property and was residing in a rental house and thereafter he had constructed a luxury residential building for Rs. 8 crores and further properties were also purchased in the name of his benamis, namely, Sakthivel and Murugan. Since no action was taken on the complaint dated 26.12.2018 the petitioner had filed a petition before this Court in Crl.OP.No.6963/2019 seeking to register a complaint and this court ordered notice and on the undertaking of the respondent that the complaint will be enquired the petition was closed. The further allegation in the petition is that 3rd and 4th respondents have not shown any interest to proceed with the complaint and that they have threatened the petitioner in many ways since the above Deputy Superintendent of Police belong to their own department and that he was having high influence in the department. Apprehending that a proper enquiry may not be done by the 4th respondent, the present petition has been filed seeking for transfer of investigation.
3. When the matter was listed before this Court on 23.06.2019, the learned counsel for the petitioner submitted that the respondents have not called the petitioner for enquiry.
4. In response to the same, it was submitted by Mr.Emaliyas, the learned Additional Advocate General that enquiry had been commenced and several witnesses have been examined and the respondent had at no point of time shown any slackness in conducting the investigation and that they would enquire the petitioner if he appears for enquiry and thereby the matter was directed to be posted on 05.07.2019 and the respondents were directed to file status report after enquiring the petitioner.
5. On 11.07.2019, when the matter was listed, the 3rd and 4th respondents have filed a status report dated 10.07.2019 stating that the petitioner was enquired at his place at Namakkal on

19.03.2019 and it had been further stated that during the course of enquiry, 10 witnesses and the petitioner were enquired and 39 documents were collected and after thoroughly verifying the documents, the respondents have come to conclusion that the allegations made against the Deputy Superintendent of Police is not substantive. It was further stated that the report of the enquiry was submitted to the Directorate of Vigilance and Anti-Corruption on 08.07.2019 for further scrutiny. The matter was adjourned to 08.08.2019 to get instruction with regard to the action taken by the Directorate and thereafter, the matter was listed for hearing today (21.08.2019).

6. Today, the respondents 3 and 4 have filed a further status report stating that the Directorate of Vigilance and Anti-corruption has approved the enquiry report on 19.07.2019.
7. The learned Additional Advocate General appearing for the respondents would submit that since the respondents have come to conclusion that the allegations against the delinquent officer are not substantiated, they have not caused any further action. He would further submit that the allegation of threat by the 3rd and 4th respondents is denied. He would submit that the allegations are vague and made without any basis. Apart from making a false allegation of threat no grounds have been raised by the petitioner seeking for transfer.
8. Mr.C.D.Johnson, learned counsel appearing for the petitioner would submit that the petitioner is withdrawing the allegations of threat and he would submit that the petitioner has raised additional grounds and would further submit that the enquiry had been conducted by an officer, who is in the same rank as that of the delinquent officer and that he also happens to be a friend and batch mate of the delinquent and thereby, there is an apprehension that the enquiry would not have been conducted in a proper manner.
9. The learned Additional Advocate General would reiterate that the enquiry had been conducted in a fair manner and the respondents have thoroughly conducted the investigation and finding that the allegations were not substantiated they have closed the case and that the respondents have not caused any further action against the officer and in such circumstances, the petition for transfer of investigation, will not lie. He would further submit that the petitioner has participated in the enquiry and no objection of bias was raised by him at that time.
10. Heard both sides.
11. I have considered the status report filed by the respondents. It has been alleged in the affidavit filed in support of the petition filed for transfer that the petitioner was threatened by the Respondents 3 and 4, whereas the same has not been substantiated by any material and the learned counsel for the

petitioner has also withdrawn the allegation of threat. The petitioner has participated in the enquiry and no objection of bias was raised at that time. Further finding that the allegations levelled against the officer have not been substantiated, the respondents have closed the enquiry. Now, only during the course of hearing, a ground has been raised alleging that the enquiry had been conducted by the officer of the same rank and thereby, prejudice is caused to the petitioner. Meanwhile the enquiry, had been completed and the respondent, finding that the allegations in the complaint dated 26.12.2018 have not been substantiated have not caused any action and it has also been approved by the Directorate.

12. In view of the above the prayer seeking transfer has become infructuous and thereby the petition stands closed granting the liberty to the petitioner to proceed in accordance with law.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

jrs

To

1. The Secretary, Home Department,
Secretariat, Chennai-600 009.
2. The Director General of Police,
Kamarajar Salai, Mylapore, Chennai-600 004.
3. The Director General of Police,
Vigilance and Anti Corruption Department,
No.293, M.K.N. Road, Alandur, Chennai-600 016.
4. The Superintendent of Police (West Zone)
Vigilance and Anti Corruption Wing
No.293, M.K.N. Road, Alandur, Chennai-600 016.
5. The Joint Director,
Central Bureau of Investigation,
E.V.K. Sampath Building, 3rd Floor,
College Road, Chennai-600 006.
6. The Special Public Prosecutor
CBI Cases, Chennai.

7. The Additional Advocate General,
High Court, Chennai.

+1 CC to Mr.J.Prakasam, Advocate sr 71959.

Crl.OP.No.15818/2019

SV(CO)
SP(13/09/2019)