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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2019

CORAM :

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P.No.16504 of 2015 and
Crl.MP No.8285 of 2019

Arjunan Petitioner/ Informant
Vs.

1. The Superintendent of Police,
Perambalur District,
Perambalur. ... Respondent
2. The Deputy Superintendent of Police,
DCB, Perambalur,
Perambalur District ... Respondent /Complainant

Common Prayer: Criminal Original Petition has been filed to direct the first respondent to further transfer the investigation of the case in Crime No.2 of 2017 on the file of Second Respondent to special Deputy Superintendent of Investigation and to file a final report before the Special Court for SC & ST Prevention of Atrocities Act, 1989.

For Petitioner : Mr.R.Sankarasubbu

For Respondent : Mr.Mohammed Riyaz,
Additional Public Prosecutor

ORDER

This petition has been filed seeking for transfer of investigation of the case in Crime No.2 of 2017.

2. It is seen from records that the respondent police has already completed the investigation and filed a final report before the Court below and the same has been taken on file in C.C.No.79 of 2018.

3. The learned counsel for the petitioner submitted that the accused person had earlier committed similar crimes and



there are totally three cases pending against him from the year 2016 onwards. In all those cases, the offence under the SC & ST was also incorporated in the final report. However, in the present case, the respondent police failed to incorporate the provision of SC & ST Act in spite of the fact that the defacto complainant belongs to SC & ST community and the accused person had deliberately grabbed the property knowing fully well that the defacto complainant belongs to SC & ST Community. Therefore, the respondent police ought to have added the offence under the SC & ST Act. Since the final report has now been filed without adding those provisions, the present petition has been filed seeking for transfer of investigation to be investigated by a police officer not less than the rank of Deputy superintendent of Police.

4. The learned Additional Public Prosecutor on instructions submitted that the materials collected by the respondent police only made out an offence under IPC. Therefore, the final report was filed without adding the provisions of SC & ST Act. The learned counsel further submitted that the case is now at the stage of trial and at this stage, the relief sought for by the petitioner cannot be entertained.

5. This Court has carefully considered the submissions made on either side and also the materials placed on record.

6. The case of the petitioner is that the accused person has committed an offence of land grabbing fully knowing well that the defacto complainant / victim belongs to SC & ST Community. Therefore, according to the petitioner, the investigation ought to have been transferred to then Deputy superintendent of police and a final report ought to have been filed before the Special Court trying SC & ST cases by adding the offence under the SC & ST Act.

6. The case is now at the stage of trial. The petitioner can always explain before the Court the entire incident and based on the statement made by the petitioner and the materials that have been collected by the respondent police, the Court below can always alter the charges and if an offence is made out under the SC & ST Act, even transfer the case before the Special Court dealing with the SC & ST cases. Such a power is available under Section 216 of Cr.PC.

6. Therefore, this Court is of the view that ordering for transfer of investigation at this stage will unnecessarily drag on the proceeding for years together. Therefore, the best option



that is available to the defacto complainant would be to give his evidence before the Trial Court and based on the material gathered, request the concerned Court to take appropriate action in accordance with law as indicated herein above.

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7. This Criminal original petition is disposed of accordingly. Consequently, the connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

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To

1. The Superintendent of Police,
Perambalur District,
Perambalur.
2. The Deputy Superintendent of Police,
DCB, Perambalur,
Perambalur District.
3. The Public Prosecutor,
High Court of Madras.

+1cc to Mr.R.Sankarasubbu, Advocate sr.60579

Cr1.O.P.No.16504 of 2019

nr 27/08/2019