IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.08.2019

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P.No.20762 of 2019

1.T.K.Chandrasekhara Reddy

2.T.K.Vimala Reddy .. Petitioners

-vs-

State Rep. by:
The Inspector of Police,
Law & Order,
J-5, Shastri Nagar Police Station,
Shastri Nagar, Adyar,
Chennai-600 020
Transferred to:-
State rep by
The Inspector of Police,
CBCID, Tamil Nadu Crime Branch,
CID Headquarters Office,
No.24, Pantheon Road,
Komaleswaranpet, Egmore,
Chennai-600 008. ..Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to transfer the CB CID (State Government Agency) investigation pending before S.C.No.148 of 2017 on the file of 1st Additional Judge, City Civil Court at Chennai to Central Bureau of Investigation (Central Government Agency) and complete the same within the stipulated time as directed by this Court.

For Petitioners : Mr.P.Subba Reddy

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

This petition has been filed seeking for a transfer of the investigation to the file of CBCID.

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2.The case of the petitioners is that they are brother and sister of the deceased, who was murdered by the accused persons in the year 2017. The deceased is said to be a Doctor and was also the Secretary of the Tamil Nadu Unit of the Indian Medical Association and All India Joint Secretary of the Indian Medical Association. Since there was no progress in the investigation, the petitioners approached this Court and sought for transfer of investigation. This Court passed the following order in Crl.O.P.No.11495 of 2018, dated 01.04.2019:

> "2.The learned counsel appearing for the petitioners would submit that the petitioners brother was murdered by the accused and others on 21.01.2017. It is a gruesome, heinous crime and murder for gain. The deceased is a doctor and was Secretary of Tamil Nadu Unit of Indian Medical Association and All India Joint Secretary of Indian Medical Association. The matter is now pending before the learned Additional Judge, City Civil Court at Chennai in S.C.No.148 of 2017 and one more Juvenile was also involved and that case is going on at Juvenile Justice Board in Kellys bearing Registration J.C.No.115 of 2017.
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> 3.The learned counsel would further submit that the petitioners filed a petition in Crl.O.P.No.8756 of 2017 to refer the matter to Central Bureau of Investigation (Central). At that time the respondent came forward stating that the charge sheet has been filed and the matter is pending before the learned Additional Judge, City Civil Court at Chennai in S.C.No.148 of 2017. Unfortunately the concerned Judge is not available on that ground the matter is adjourned from time to time. The prosecution has recovered valuable properties like bonds, promissory notes, jeweleries and cash etc., and the incident took place as early as January 2017 though more than 14 months elapsed there is no progress and as the law laid down by the Apex Court that they must return all the properties to the Court and then only the Court is aware of the properties of the victim.
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> 4.The learned counsel would further submit that even though the case is pending for more than 14 months in the Sessions Court i.e. I Additional Judge, City Civil Court, Chennai, there is no progress on the ground that the Presiding Officer is only in charge and not able to go further because concerned Judge happened to be in charge, it took considerable time even to get copies of the documents filed by the prosecution. Now the situation is even worse, the in-charge judge is also not available. Hence, the petitioners have lost their confidence on the present prosecution. Hence, this petition.

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5.Heard the learned counsel for the petitioners and also the learned Additional Public Prosecutor.

6.Considering the facts and circumstances of the case, this Court finds that there is a force in the submissions of the learned counsel for the petitioners and finds that it is a fit case for further investigation in Crime No.256 of 2017 on the file of the respondent.

7.Accordingly, the proceedings that are pending in S.C.No.148 of 2017 on the file of the learned 1st Additional Judge, City Civil Court, Chennai is stayed till the further investigation is completed.

8.The respondent is hereby directed to handover the entire case diary to the CBCID, Chennai for further investigation in Crime No.256 of 2017. On receipt of the same, the CBCID is directed to complete the further investigation within a period of three months from the date of receipt of a copy of this order and file a final report before the concerned Court.

9.Thereafter, the learned 1st Additional Judge, City Civil Court, Chennai is directed to take the same on file and proceed with the trial in S.C.No.148 of 2017 within a period of three months."

3.Mr.P.Subba Reddy, learned counsel appearing for the petitioners submitted that inspite of the orders passed by this Court, there was absolutely no progress in the investigation and the investigation has not even been commenced by the CBCID. Therefore, the petitioners left with no other option have approached this Court and are seeking for further orders of this Court.

4.When the matter came up for admission, this Court directed the learned Additional Public Prosecutor to take instructions as to the stage of investigation and as to whether the case diary has already been transferred to CBCID.

5.The learned Additional Public Prosecutor on instructions submitted that due to lack of communication, there was a delay in transferring the case diary and now the Commissioner of Police, Greater Chennai by his letter dated 16.08.2019 has forwarded the entire case diary to the CBCID and the same has been acknowledged by the Director General of Police, CBCID, Egmore on 16.08.2019. The learned counsel assured that the investigation will be commenced immediately and will be completed within a time that can be stipulated by this Court.

6.In view of the above development, there shall be a direction to the Director General of Police, CBCID, Egmore to

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immediately assign the task of investigation to a team and direct them to commence the investigation. Since the case is of a very serious nature and there has been no progress for nearly 2½ years, top priority shall be given to this case and the investigation shall be effectively done and final report shall be filed as early as possible, by bringing all the accused persons to book. An effective investigation in this case will repose a lot of confidence to the general public.

7.This Criminal Original Petition is disposed of with a direction to the CBCID to complete the investigation within a period of six months from the date of receipt of copy of this order and final report shall be filed before the 1st Additional Judge, City Civil Court, Chennai where S.C.No.148 of 2017 is already pending. As stated in the earlier order, the proceedings in S.C.No.148 of 2017 shall remain stayed till the filing of the final report by CBCID.

vs

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1.The 1st Additional Judge,
City Civil Court, Chennai.

2.The Inspector of Police,
Law & Order, J-5, Shastri Nagar
Police Station,
Shastri Nagar, Adyar,
Chennai-600 020

3.The Inspector of Police,
CBCID, Tamil Nadu Crime Branch,
CID Headquarters Office,
No.24, Pantheon Road,
Komaleswaranpet, Egmore,
Chennai-600 008.

4.The Public Prosecutor,
High Court, Madras.

+2cc to Mr.P.Subba Reddy, Advocate, SR.No.70301

CRL.O.P.No.20762 of 2019

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