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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN  
and  
THE HONOURABLE MR.JUSTICE P.D.AUDIKESSAVALU

Crl.O.P.No.23710 of 2018  
and  
Crl.MP.No.462 of 2019

C.M.Sivababu

... Petitioner

Vs

1. The Director General of Police,  
State of Tamil Nadu,  
Dr.Radhakrishnan Salai,  
Chennai - 600 004.
2. The Inspector General of Police,  
North Zone,  
Tamil Nadu Police Department,  
Dr.Radhakrishnan Salai,  
Chennai - 600 004.
3. The Deputy Inspector General of Police,  
Vellore Range,  
Anna Salai, K.K. Nagar,  
Thorapadi,  
Vellore - 632 001.
4. The District Superintendent of Police,  
Vengikkal, Tiruvannamalai,  
Tiruvannamalai District - 606 604.
5. The Deputy Superintendent of Police,  
Town Sub Division, Tiruvannamalai,  
Tiruvannamalai District.
6. The State rep.by  
the Inspector of Police,  
Tiruvannamalai Town Police Station,  
Tiruvannamalai,  
Tiruvannamalai District.



7. The Sub Inspector of Police,  
Tiruvannamalai Town Police Station,  
Tiruvannamalai,  
Tiruvannamalai District.

8. The Commissioner,  
Dept.of Hindu Religious and Chairtable Endowments  
Nungambakkam High Road  
Nungambakkam, Chennai - 600 034.

9. The District Collector,  
Office of the District Collector,  
Vergikkal, Tiruvannamalai,  
Tiruvannamalai District.

10. The Commissioner,  
Tiruvannamalai Municipality,  
Sannathi Street,  
Tiruvannamalai,  
Tiruvannamalai District.

(R8 to R10 are impleaded as per the order of this Court  
dated 06.12.2018 in CrI.MP.No.16649/2018 and made herein)

11. Senthil Kumar

12. Ramesh ... Respondents

(R11 & R12 are impleaded as per the order of this Court  
dated 07.01.2019 in CrI.MP.No.238 of 2019 and made herein)

Criminal Original Petition filed under Section 482 of the  
Criminal Procedure Code to transfer the investigation of the  
case in Crime No.193 of 2014 on the file of the sixth respondent  
herein to any other State or Central Investigating Agency.

|                |                              |
|----------------|------------------------------|
| For Petitioner | : Mr.J.Ashok                 |
| For R1 to R7   | : Mr.C.Iyyapparaj, APP       |
| For R8         | : Mr.M.Maharaja, SGP (HR&CE) |
| For R9 & R10   | : Mr.J.Ramesh, AGP           |
| For R11 & R12  | : Mr.Kaithamalai Kumaran     |



## ORDER

This Criminal Original Petition has been filed by the petitioner seeking transfer of the investigation of the case in Crime No.193 of 2014 pending on the file of the sixth respondent police to any other State or Central Investigating Agency.

2.It is the case of the petitioner that he is a resident of Tiruvannamalai, which is one of the Divine places in Tamil Nadu. There are several sacred temples along the GIRIVALAM route in Tiruvannamalai Town and one such temple is Arulmigu Bhaktha Markandeya Temple at Chengam Road. The history of the temple is time immemorial and it is one of the sub temples of Arulmigu Arunachaleswarar Temple under the control of the Tamil Nadu Hindu Religious and Charitable Endowments Department. Be that as it may, in the year 2014, one Venkatesan and others had encroached upon the land adjacent to the said Arulmigu Bhaktha Markandeya Temple and constructed a coffee shop under the name and style of "Kumbakonam Degree Filter Coffee" in the land, where the said temple is situated. According to the petitioner, there are so many artefacts of vintage importance within the temple premises, which had been stolen and removed, while razing the temple illegally. Hence, he along with others approached and reported about the same to the Inspector, HR&CE Department, Tiruvannamalai, who in turn, made a complaint to the sixth respondent. The said complaint was registered as Crime No.193 of 2014 and some of the accused were subsequently, arrested. Thereafter, the respondent police evinced no interest in investigating the case, which compelled the petitioner to approach this Court with the present petition for the aforesaid relief.

3.On 14.12.2018, when the matter was taken up for consideration, based on a report filed by the Special Government Pleader (HR&CE), this Court directed the Deputy Superintendent of Police, Tiruvannamalai and the Inspector of Police, Tiruvannamalai Police Station to file a report with regard to Cr.No.193 of 2014. Accordingly, on 19.12.2018, the Police Authorities submitted a report, wherein, at paras 7 and 10, it has been specifically averred as follows:

"7.I submit that after completion of elaborate and detailed investigation, based on the witnesses statement and material evidences, the then Inspector of Police altered the section of this case into under Sections 147, 427, 380(2) r/w 120(b) and 109 IPC and Sections 3 and 4 of TNPPDL Act against the accused persons (A1 to A13) and filed charge sheet against them before the Judicial Magistrate Court No.I,



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Tiruvannamalai on 15.1.2015 and the same is yet to be taken on file.

10.I further submit that on perusal of CD file of this case, it came to know that the Idol of Arulmigu Margandeyar was not recovered and there is a reliable information that a similar idol was recovered by the Revenue Authority of Tiruvannamalai Taluk from the well located at Valathottai Street, Tiruvannamalai Town on 12.1.2018. Hence, I pray this Hon'ble Court to permit me to conduct further investigation of this case and to file final report before the concerned Court."

Pursuant to the aforesaid report and considering the nature of the issue involved herein and gravity of the offence committed by the accused, who demolished the temple and constructed a coffee shop, this Court directed the Deputy Superintendent of Police, Tiruvannamalai and the Inspector of Police, Tiruvannamalai Police Station to seal the coffee shop in question immediately and report the same on 21.12.2018.

4.Accordingly, the Coffee Shop viz., Kumbakonam Degree Filter Coffee was sealed on 20.12.2018 and a communication was filed to that effect by the Tahsildar, Tiruvannamalai. Aggrieved by the action so taken, the owners of the Coffee Shop have come up with Crl.MP.No.462 of 2019 seeking to de-seal the shop in question.

5.It is the submission on the side of the petitioners in Crl.MP No.462 of 2019 viz., owners of the coffee shop that the owners of the coffee shop have not demolished Arulmigu Baktha Markandeyar Temple situated at Chengam Road, Tiruvannamalai Taluk and Town, as alleged by the petitioner. According to him, the temple was situated in Highways and it was demolished by mischief mongers, whereas, the coffee shop is situated in patta land. The said submission made by the learned Senior Counsel was refuted by the learned counsel for the petitioner. Hence, in order to unravel the truth, this Court, vide order dated 25.01.2019, directed the Surveyor, Tiruvannamalai Taluk, with the assistance of the Village Administrative Officer and under the supervision of the Tahsildar, Tiruvannamalai, to survey the land in question, based on the revenue records and file a detailed report.

6.Pursuant to the aforesaid direction, the Tahsildar of Thiruvannamalai Taluk was present and sought time for filing a detailed report. However, based on the records, he submitted



that the said temple was located at Girivalam Pathai and in the revenue records, it is classified as "Road".

7. Heard all the parties and perused the documents placed before this Court, including the revenue records, which would amply prove that the demolished temple was situated in the place, where the coffee shop is now constructed. Albeit a case in Cr.No.193 of 2014 was registered by the sixth respondent and some of the persons were arrested, yet, no progress was made in the said case. Further, no steps have been taken by the Authorities to recover the land. In such circumstances, taking into account the rival submissions and nature of the issue involved herein, this Court deems it appropriate to transfer the investigation of the case to the Idol Wing, to proceed further.

8. Accordingly, the case in Crime No.193/2014 is withdrawn from the file of the sixth respondent and transferred to the file of the Idol Wing to proceed further in accordance with law.

9. This Criminal Original Petition stands disposed of in the above terms. Consequently, connected Miscellaneous Petition is closed.

Sd/-  
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Director General of Police,  
State of Tamil Nadu,  
Dr.Radhakrishnan Salai,  
Chennai - 600 004.
2. The Inspector General of Police,  
North Zone,  
Tamil Nadu Police Department,  
Dr.Radhakrishnan Salai,  
Chennai - 600 004.
3. The Deputy Inspector General of Police,  
Vellore Range,  
Anna Salai, K.K. Nagar,  
Thorapadi, Vellore - 632 001.



4. The District Superintendent of Police,  
Vengikkal,  
Tiruvannamalai,  
Tiruvannamalai District - 606 604.

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5. The Deputy Superintendent of Police,  
Town Sub Division,  
Tiruvannamalai,  
Tiruvannamalai District.

6. The Inspector of Police,  
Tiruvannamalai Town Police Station,  
Tiruvannamalai,  
Tiruvannamalai District.

7. The Sub Inspector of Police,  
Tiruvannamalai Town Police Station,  
Tiruvannamalai,  
Tiruvannamalai District.

8. The Commissioner,  
Dept.of Hindu Religious and Chairtable Endowments  
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9. The District Collector,  
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10. The Commissioner,  
Tiruvannamalai Municipality,  
Sannathi Street,  
Tiruvannamalai,  
Tiruvannamalai District.

11. The Tahsildar,  
Tiruvannamalai

12. The Superintendent of Police,  
Idol Wing, Tiruvannamalai.

+1cc to Mr.J.Ashok, Advocate, S.R.No.14187

Cr1.O.P.No.23710 of 2018

VD(CO)  
CS/15/05/2019