



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **24.04.2019**

CORAM:

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

Crl.M.P. (MD)No.441 of 2019

in

CRL.O.P. (MD)No.6496 of 2018

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: Petitioner

-Vs-

1. The Superintendant of Police,
O/o. Superintendant of Police,
Thoothukudi District.

2. The Deputy Superintendant of Police,
Tiruchendur, Thoothukudi District.

3. The Inspector of Police,
Tiruchendur Police Station,
Thoothukudi District.
(Crime No.70 of 2018)

4. The Sub-Inspector of Police,
Tiruchendur Police Station,
Thoothukudi District.

: Respondents / Complainant

PRYAER in Crl.M.P. (MD)No.441 of 2019:- Petition is filed under Section 482 of the Criminal Procedure Code, to recall the order made in Crl.O.P. (MD)No.6496 of 2018 dated 23.04.2018 by this Court and set aside the same and subsequently to direct the 1 and 2 respondents herein to transfer the investigation in Crime No.71 of 2018 dated 12.03.2018 on the file of the third and fourth respondents herein to any other competent officer under his jurisdiction.

PRAYER in CRL.O.P. (MD)No.6496 of 2018 : Petition is filed under Section 482 of the Criminal Procedure Code, to direct the first respondent herein to transfer the investigation in Crime No.71 of 2018 dated 12.03.2018 on the file of the third and fourth respondents herein to any other competent officer under his jurisdiction.

For Petitioner	: Mr.S.Selvakumar
For Respondents	: Mr.V.Neela Kandan
	Additional Public prosecutor

**ORDER**

This main Criminal Original Petition has been filed to direct the first respondent to transfer the investigation of the case in Crime No.71 of 2018 dated 12.03.2018. This Court has dismissed the petition Vide its order dated 23.04.2018.

2. The learned counsel for the petitioner has filed CrI.M.P. (MD) No.441 of 2019 seeking to recall the above order.

3. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

4. The learned counsel appearing for the petitioner submitted that when the case came up before this Court on 23.04.2018, a statement was made on behalf of the prosecution that the case was referred as 'mistake of fact' and charge sheet has been laid. Recording the said statement, the present Criminal Original Petition was dismissed. Thereafter, the petitioner had moved the concerned Magistrate Court to raise his protest. His petition was returned with a Court's endorsement 'no charge sheet was laid'. Hence, he has filed the present petition for recalling the earlier prayer for transfer of investigation.

5. On earlier occasion when the miscellaneous petition came up before this Court, this Court wanted the presence of the third respondent before this Court to explain the matter.

6. Today, the third respondent Mr. Muthurajan, Inspector of Police, Tiruchendur Police Station appeared before this Court and submitted that he took charge of the Station only in February, 2019, that the earlier Investigating Officer has already completed the investigation and has wrongly informed the learned Additional Public Prosecutor that the matter was as 'mistake of fact'. But, no charge sheet has been laid till date.

7. Inasmuch as no final report has been laid so far, the earlier order passed by this Court dated 23.04.2018 is recalled.

8. In view of the above, this Court is inclined to issue a direction to the present Investigating Officer/ third respondent. Accordingly, the present Investigating Officer / third respondent is directed to investigate the matter thoroughly and the second respondent is directed to monitor the course of investigation to be done by the third respondent.



9. In the result, this Criminal Original Petition is disposed of and Crl.M.P.(MD)No.441 of 2019 is allowed. The Registry is directed to issue fresh order copy to the parties concerned.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

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To

- 1.The Superintendant of Police,
District Collector Office,,
Thoothukudi District.
2. The Deputy Superintendant of Police,
Tiruchendur, Thoothukudi District.
- 3.The Inspector of Police,
Tiruchendur Police Station,
Thoothukudi District.
(Crime No.70 of 2018)
- 4.The Sub-Inspector of Police,
Tiruchendur Police Station,
Thoothukudi District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Order made in
CRL.O.P. (MD) No.6496 of 2018
Dated: 24.04.2019

BUC (09/07/2019) 3P/6C