

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED :13.03.2019****CORAM:****THE HONOURABLE MR. JUSTICE N.SESHASAYEE****Cr1.O.P. (MD) .No.4556 of 2018**

Tirupathi

... Petitioner

Vs

1.The Superintendent of Police,
Madurai District, Madurai.2.The Inspector of Police,
Kottampatti Police Station, Melur, Madurai District.3.The Inspector of Police,
CBCID, Madurai.

...Respondents

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, directing the first respondent herein to transfer the investigation of the case in Crime No.400 of 2016, on the file of the second respondent Police to the file of the third respondent herein and to continue the investigation.

For Petitioner : Mr.K.Jayaseelan

For Respondents : Mr.V.Neelakandan

Additional Public Prosecutor

O R D E R

The present petition is filed seeking a direction to transfer the investigation of the case in Crime No.400 of 2016, on the file of the second respondent to the third respondent Police.

2.The petitioner is a *de facto* complainant in Crime No.400 of 2016 and a case is registered for the offences under Sections 294 (b), 365, 397 and 34 I.P.C.

3.The learned Additional Public Prosecutor submitted that the investigation has been completed and charge sheet has been laid and the case has been taken on record in C.C.No.106 of 2018, before the learned Judicial Magistrate, Melur.

<https://hcservices.ecourts.gov.in/hcservices> 4.The learned counsel appearing for the petitioner submits that notwithstanding the fact that the final report has been laid and the Court has taken cognizance of the offences, the fact remains

that the stolen article has not been recovered by the Investigating Agency at all.

5.While, it may not be mandatory that in every case stolen article should be recovered, nor the investigation may have to be necessarily suspected, merely because it was not so recovered. It cannot by itself make out a case for transfer of investigation after the trial Court has taken cognizance of the offence. This Court, therefore, directs the petitioner to move the trial Court with necessary application to assist the prosecution which may enable the petitioner to appreciate that the investigation has been done on proper lines. If however any materials suppress, the Court can take cognizance of the same under Section 173 (8) Cr.P.C.

6.With the above direction, the Criminal Original Petition stands disposed of.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Judicial Magistrate,Melur

2.The Superintendent of Police,
Madurai District, Madurai.

3.The Inspector of Police,
Kottampatti Police Station, Melur, Madurai District.

4.The Inspector of Police,
CBCID, Madurai.

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.A.JEYASEELAN, Advocate, SR.No.54019

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tsg

KK/SAR/05.04.2019/ 2P- 7C