



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.02.2019

CORAM

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THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Crl.O.P.(MD)No.1539 of 2016

V.Palanisamy

... Petitioner

Vs.

1.The Superintendent of Police,
Sivagangai District,
Sivagangai.

2.The Deputy Superintendent of Police,
Anti-Land Grabbing Cell,
Sivagangai District.

3.The Inspector of Police,
SV Mangalam Police Station,
Sivagangai District.

... Respondents

Prayer: Petition filed under Section 482 of the Criminal Procedure Code to direct the first respondent to transfer the investigation in Crime No.1 of 2016 on the file of the third respondent to some other investigation officer or to the second respondent or under his supervision.

For Petitioner : Mr.P.P.Athin Balan

For Respondents : Mr.A.Robinson,
Government Advocate (Crl. Side)

ORDER

Heard the learned Counsel on either side.

2. According to the petitioner, the accused persons have created a forged document with regard to a common pathway in order to grab the same. When the petitioner lodged a complaint before the third respondent on 27.10.2015, the third respondent refused to register the same, stating that no criminal case is made out and advised to work out the remedy before the civil Court. Therefore, the petitioner has made a representation to the Superintendent of Police, Sivagangai and Deputy Superintendent of Police, Anti Land Grabbing Special Cell, Sivagangai, on 01.12.2015.



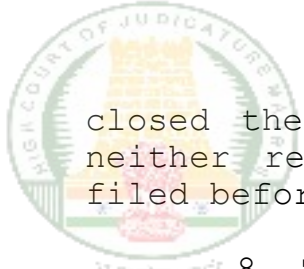
3. The Deputy Superintendent of Police, thereafter, vide letter dated 04.12.2015 in Na.Ka.No.127-1/ALGSC/SVG/15, has forwarded the complaint to the Superintendent of Police, Sivagangai that a *prima facie* case has been made out and the Superintendent of Police, had also forwarded the complaint to the third respondent with an endorsement that a *prima facie* case has been made out. But, the third respondent, instead of registering the case, in order to evade from registering the complaint, has sought a legal opinion from the Additional Public Prosecutor, Thiruppathur, as against the endorsement made by the Superintendent of Police and Deputy Superintendent of Police. However, the case came to be registered only on 02.01.2016, after a period of one month from the recommendation made by the Superintendent and Deputy Superintendent of Police and that too, by recording the reply of the petitioner dated 01.12.2015. According to the petitioner, this reply letter dated 01.12.2015 is a subsequent letter made as a clarification for the objection raised by the Sub Inspector of Police, Anti Land Grabbing Special Cell, Sivagangai, when they have refused to register his complaint and it ought not to have been treated as the First Information Report.

4. The grievance of the petitioner is that the third respondent, even after registering the case, is not taking any steps and therefore, apprehending that if the investigation is allowed to continue with the third respondent, there will not be any fair and impartial investigation, the petitioner has filed this petition seeking transfer of investigation from the file of the third respondent police to some other investigation agency.

5. Learned Government Advocate (Crl. Side), on instructions from Mr.A.Sethuraj, Sub-Inspector of Police, S.V.Mangalam Police Station, Sivagangai, who is also present before this Court, submitted that the third respondent has closed the case as mistake of fact on 29.02.2016. However, neither referred charge sheet was served upon the complainant nor it has been filed before the jurisdictional Magistrate Court.

6. When this Court intended to verify the reasons for closing the case as mistake of fact, the learned Government Advocate (Crl. Side) submitted that no materials are available as to how the case has been referred as mistake of facts and further submitted that the concerned Inspector of Police has been subsequently suspended in connection with some other case.

7. It appears that though the complaint was lodged before the third respondent police on 27.10.2015, the same was not registered. Therefore, the petitioner has made a representation before the Superintendent of Police and Deputy Superintendent of Police on 01.12.2015. Even after their recommendation dated 04.12.2015 that a *prima facie* case has been made out, the complaint came to be registered only on 02.01.2016. Though the investigation officer has



closed the case as early as on 29.02.2016, as mistake of facts, neither referred charge sheet was served on the complainant nor filed before the concerned Magistrate Court.

8. The manner in which the investigation officer handled the case does not satisfy the judicial conscious of this Court. In such a view of the matter, this Court directs the first respondent / Superintendent of Police to look into the case papers in respect of Crime No.1 of 2016 on the file of the third respondent police and entrust the investigation to some other investigation officer, who shall conduct the investigation in accordance with law.

9. With the above directions, this Criminal Original Petition is disposed of.

Sd/-

Assistant Registrar (CS)

// True Copy //

Sub Assistant Registrar(CS)

To

- 1.The Superintendent of Police,
Sivagangai District,
Sivagangai.
- 2.The Deputy Superintendent of Police,
Anti-Land Grabbing Cell,
Sivagangai District.
- 3.The Inspector of Police,
SV Mangalam Police Station,
Sivagangai District.

Kk/04.04.2019/3p/4c

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