

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 15.03.2019

CORAM

THE HONOURABLE MR.JUSTICE B.PUGALENDHI**Cr1.O.P. (MD)No.2048 of 2016**

R.Vellaichamy

... Petitioner/Defecto Complainant

Vs.

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

2.The Inspector of Police,
Devipattinam Police Station,
Ramanathapuram District.
(Crime No.93 of 2014)

3.The Deputy Superintendent of Police (CBCID),
CBCID Office,
Ramanathapuram District. ... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C, to withdraw the case in Crime No.93 of 2014 on the file of the second respondent and entrust the same to the third respondent for investigation of the case by the Competent Officer and file a final report before the Jurisdictional Magistrate within the time stipulated by this Court.

For Petitioner : Mr.R.Venkatesan

For Respondents : Mr.R.Anandaraj
Additional Public Prosecutor

O R D E R

This petition has been filed seeking transfer of investigation in Crime No.93 of 2014 from the file of the second respondent to third respondent.

2. The case in Cr.No.93 of 2014 was filed in the year 2014 at the instance of the petitioner for the offence punishable under section 420 IPC., alleging that the accused have misappropriated to the tune of Rs.20,00,000/- in construction of the Tsunami House.



3. According to the petitioner, he has filed an application to file a final report in CrI.OP(MD).No.11406 of 2014 and the same was also allowed on 24.06.2014 with a direction to the respondent police to file a final report within a period of four weeks from the date of receipt of copy of the order. Despite the same, the respondent police has not yet filed the final report and therefore the petitioner has filed this criminal original petition seeking transfer of investigation.

4. The learned Additional Public prosecutor, on instructions from Mr.V.Baskaran, Sub-Inspector of Police, Devipattinam, Ramanathapuram, who is also present before this Court, would submit that pending this criminal original petition, the investigation in Cr.No.93 of 2014 has been concluded and final report has also been filed before the learned Judicial Magistrate No.I, Ramanathapuram on 24.02.2019.

5. It appears that the final report has been filed only on 24.02.2019 as mistake of facts. As per the decision of the Hon'ble Supreme Court reported in **(1985) 2 SCC 537 (Bhagavan Singh Vs. Commissioner of Police and another)**, if the Magistrate, while entertaining a closure final report (mistake of facts), decides not to take cognizance of the offence and to drop the proceeding or takes the view that there is no sufficient ground for proceeding against the accused, must give notice to the informant and provide him an opportunity to be heard at the time of consideration of the report. Hence, the Magistrate is directed to effect notice to the petitioner, enabling him to contest the same, by producing materials, if he so advised and thereafter, proceed further in the manner known to law.

7. With the above direction, this petition is disposed of.

Sd/-

Assistant Registrar(P&A)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Judicial Magistrate No.I,
Ramanathapuram.

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



3.The Inspector of Police,
Devipattinam Police Station,
Ramanathapuram District.

4.The Deputy Superintendent of Police (CBCID),
CBCID Office,
Ramanathapuram District.

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

+1 CC to M/s.R.VENKATESAN, Advocate in SR-54512

Crl.O.P. (MD) No.2048 of 2016
15.03.2019

dss
PK/27.04.2019 : 3P/7C