

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 01.04.2019****CORAM****THE HONOURABLE MR. JUSTICE B.PUGALENDHI****Cr1.O.P.(MD)No.2903 of 2016**

Mohammed Batcha

.. Petitioner

Vs.

1.State rep. by

The Superintendent of Police,
Madurai District, Madurai.

2.The Sub Inspector of Police,

Silaiman Police Station,
Madurai District, Madurai.

3.The Inspector of Police,

Karuppayurani Police Station,
Madurai District, Madurai.

4.Kanagaraj

.. Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to pass orders directing the 1st respondent to entrust the investigation of the case in Crime No.367 of 2015 on the file of the 2nd respondent to some other officer in the cadre of Deputy Superintendent of Police.

For Petitioner : Mr.M.Saravanan

For Respondents : Mr.R.Anandharaj
Additional Public Prosecutor**ORDER**

This petition is filed by the defacto complainant in Crime No.367 of 2015 for a direction to the first respondent to withdraw the case in Crime No.367 of 2015 on the file of the Silaiman Police Station and to entrust the same to some other Officer in the cadre of Deputy Superintendent of Police.

2.According to the petitioner, he is a poor farmer having 3.5 acres of agricultural lands at Sakkimangalam Village. The accused, one Kanagaraj, claiming to be a founder of Gothandaraman Foundation, Green Land, has approached the petitioner in the month of September 2014 stating that through the foundation they are developing farmers



of Sandal wood and other trees. Believing his words, the defacto complainant gave a sum of Rs.15,000/- towards seedlings and thereafter a sum of Rs.7,500/-. The accused gave him Sandal wood seedlings and after purchasing the same, the petitioner had spent a sum of Rs.32,000/-. The accused assured that the trees would grow in a span of seven years and each tree would fetch Rs.3,00,000/-. By making this false promise, the accused had collected nearly Rs.2,10,500/- from this petitioner alone and that apart he has also collected money in similar manner and in this way, he has cheated the other farmers also.

3.Though the case was registered on 22.09.2015, there was no progress in the investigation and therefore, this petitioner made a complaint to the Superintendent of Police, Madurai District, on 15.12.2015. Even thereafter, the third respondent has not acted upon the complaint. The anticipatory bail application filed by the accused in CrI.O.(MD).No.22633 of 2015 was dismissed by this Court and even after the order of dismissal, the respondent police has not chose to arrest the accused and therefore, he approached this Court for transfer of investigation.

4.The learned Additional Public Prosecutor would submit that the petitioner had paid the amount by way of executing the agreement and even as per the agreement, certain terms and conditions have been imposed. The petitioner have failed to follow those terms and conditions and to maintain the seedlings properly, so that the crops have failed. He would further submit that the petitioners have not furnished the documents in support of his case and therefore the respondent police are not in a position to complete the investigation.

5.Heard the counsel on either side and also perused the records.

6.The complaint was lodged in the year 2015. This petitioner has made a representation against the investigating agency on 15.12.2015 to the first respondent and has also approached this Court for transfer of investigation by filing this petition on 15.02.2016. A notice was taken by the respondent police and the petition is pending from the year 2016. There is no interim order prohibiting the respondent police to proceed with the investigation. Even though certain allegations have been made against the third respondent police, the third respondent has not proceeded with the investigation and kept the matter pending for the past four years. The respondent police have not even collected any details as to whether the accused is having any permission to conduct any such scheme as provided under the pamphlets.

7.In view of the same, this Court is inclined to entertain this petition and directs the first respondent / Superintendent of Police to withdraw the case in Crime No.367 of 2015 from the Silaiman Police Sttation, Madurai District and entrust the same to some other



investigating agency, who shall conduct the investigation in a proper manner and file the final report within a period of three months from the date of taking over the investigation. The petitioner shall also furnish the relevant documents if any in his custody.

8. With the above directions, this criminal original petition is disposed of.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The Superintendent of Police,
Madurai District, Madurai.
2. The Sub Inspector of Police,
Silaiman Police Station,
Madurai District, Madurai.
3. The Inspector of Police,
Karuppayurani Police Station,
Madurai District, Madurai.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr. Saravanan, Advocate in SR.No.58171

RR/03.05.2019/3P/6C

Crl.O.P. (MD) No.2903 of 2016