



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.04.2019

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THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Crl.O.P. (MD)No.4634 of 2016

K.Rajaraman

... Petitioner

Vs.

1.The Commissioner of Police,
Madurai City,
Madurai.

2.The Inspector of Police,
Theppakulam Police Station,
Madurai District.
Crime No.1016/2015

3.The Inspector of Police,
City Crime Branch,
Madurai City,
Madurai.

... Respondents

Prayer: Petition filed under Section 482 of the Criminal Procedure Code to transfer the investigation pertaining to the case in Crime No.1016 of 2015, dated 06.10.2015, pending on the file of the 2nd respondent to the 3rd respondent.

For Petitioner : Mr.R.Aravindan

For Respondents : Mr.R.Anandharaj,
Additional Public Prosecutor

ORDER

This Criminal Original Petition is filed by the petitioner seeking transfer of investigation in respect of Crime No.1016 of 2015, from the file of the second respondent Police to the third respondent Police.

2. According to the petitioner / complainant, one Ramesh / accused, an employee of his company, by fabricating false accounts, has misappropriated to the tune of Rs.23,90,321/-. Therefore, he has lodged a complaint as against the said Ramesh before the second respondent Police and the same was registered in Crime No.1016 of



2015, for the offence under Sections 403, 406, 408, 420 & 477(A) IPC, dated 06.10.2015. The accused, after exhausting his remedy for anticipatory bail, surrendered before the concerned Court and was also taken into custody by the police, where he has given a voluntary confession statement.

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3. The case of the petitioner is that though the accused has admitted his guilt and has also made a voluntary confession statement, the second respondent Police has not taken any effective steps to search the premises of the accused so as to secure the misappropriated amount and therefore, he has moved an application before this Court in Crl.O.P.(MD)No.2986 of 2016, seeking a direction to take appropriate steps to search the house premises of the accused. When the said petition came up for hearing, this Court, by order dated 18.02.2016, while declining to grant any direction as prayed for by the petitioner, has directed the Assistant Commissioner of Police, Town Crime, Madurai City to monitor the investigation in Crime No.1016 of 2015 and take appropriate action in accordance with law.

4. Now, the grievance of the petitioner is that though this Court has given a specific direction to the Assistant Commissioner of Police, Town Crime, Madurai City, to monitor the investigation and take appropriate action, as early as on 18.02.2016, the second respondent has not taken any further action in the case and therefore, he has filed the present petition seeking transfer of investigation.

5. The learned Additional Public Prosecutor, appearing for the respondents, has produced a status report of the second respondent, dated NIL, and would submit that they have confirmed the offence committed by the accused and have also arrayed the total amount cheated by the accused persons. But, the petitioner / defacto complainant is not co-operating for the investigation and has not produced the list of persons who have given amount to the first accused. Therefore, they are not in a position to proceed further with the investigation and complete the same.

6. Heard the learned Counsel appearing on either side and perused the documents placed on record.

7. The case was registered in the year 2015. Since there was no progress in the investigation, the petitioner has approached this Court by filing Crl.O.P.(MD)No.2986 of 2016, for a direction to the respondent Police to search the house of the accused and to recover the misappropriated amount. While disposing that application, this Court expressed its view that the relief sought for by the petitioner cannot be granted as it is the prerogative of the investigation agency, however, by order dated 18.02.2016, issued a direction to the Assistant Commissioner of Police, Town Crime, Madurai City to monitor the investigation in Crime No.1016 of 2015.



8. Despite the direction issued by this Court in Crl.O.P.(MD) No.2986 of 2016, there was no progress in the investigation, which necessitated this application for transfer of investigation in Crime No.1016 of 2015, dated 06.10.2015, from the file of the Inspector of Police, Theppakulam Police Station to the Inspector of Police, City Crime Branch, Madurai City.

9. A status report was filed on behalf of the respondents that the 2nd respondent Police, during the course of investigation, confirmed the offence committed by the accused and also arrayed the total amount cheated by him. However, they could not proceed further as the petitioner / defacto complainant has not co-operated with the investigation by furnishing the details of merchants, etc. But, the status report does not disclose the steps taken by the Assistant Commissioner of Police, pursuant to the earlier directions of this Court. No materials have been placed on record as to the steps taken by the investigation agency in collecting the documents from the petitioner / complainant. In the absence of any materials that a proper investigation was carried out and was monitored by the Assistant Commissioner of Police, as directed by this Court in Crl.O.P.(MD)No.2986 of 2016, this Court deems it fit to allow this petition.

10. Accordingly, this Criminal Original Petition is allowed and the first respondent is directed to withdraw the case in Crime No.1016 of 2015 from the file of the Inspector of Police, Theppakulam Police Station, Madurai / 2nd respondent and entrust the investigation to the Inspector of Police, City Crime Branch, Madurai City / 3rd respondent, who shall conduct the further investigation and shall conclude the same, within a period of three months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar (AS)

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/ /2020

Sub Assistant Registrar(CS)

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To

1.The Commissioner of Police,
Madurai City,
Madurai.



2.The Inspector of Police,
Theppakulam Police Station,
Madurai District.

3.The Inspector of Police,
City Crime Branch,
Madurai City,
Madurai.

4.The Assistant Commissioner of Police,
Town Crime, Madurai City.

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

Crl.O.P. (MD)No.4634 of 2016
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