



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE: 19.07.2019

CORAM :

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THE HONOURABLE MR.JUSTICE **V.BHARATHIDASAN**

CrI.O.P.(MD)No.23372 of 2014
and M.P.(MD)No.1 of 2014

Duraipandian

... Petitioner/Accused No.1

Vs.

1.State through by
The Superintendent of Police,
O/o. Superintendent of Police,
Sivagangai District.

2.The Inspector of Police,
Manamadurai Police Station,
In Crime No.583 of 2014,
Sivagangai District.

3.The Inspector of Police,
CBCID, Sivagangai District.

... Respondents/Respondents

Prayer: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to direct the first respondent to withdraw the Crime No.583 of 2014 on the file of the second respondent and transfer the same to the third respondent.

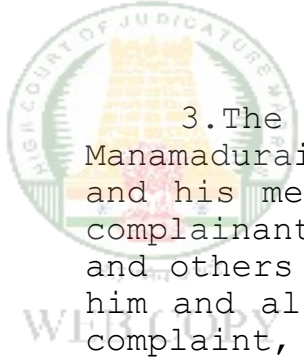
For Petitioner : Mr.C.Susi Kumar

For Respondents : Mr.K.K.Ramakrishnan
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to direct the first respondent to withdraw the Crime No.583 of 2014 on the file of the second respondent police and transfer the same to the third respondent police.

2.The petitioner is arrayed as accused No.1 in Crime No.583 of 2014 for the offence under Sections 147, 148, 447, 294(b), 342, 353, 332, 394, 382, 307, 379 and 506(ii) of IPC and Section 21(4) of Mines and Minerals Development of Regulation Act and Section 3(1) of INPDL Act.



3.The defacto complainant is a Inspector of Police, Manamadurai Police Station. The allegation is that the petitioner and his men illegally conducted quarry operation, when the defacto complainant and other police men questioned the same, the petitioner and others have beaten the defacto complainant, criminally intimidated him and also prevented him from discharging his duty. The defacto complaint, in order to protect himself, open the fire from his revolver in the sky and escaped from the scene. Thereafter, based on a complaint given by the defacto complainant, a FIR in crime No.583 of 2014 has been registered against the petitioner herein. Now, the petitioner has filed this petition to transfer the investigation to the third respondent police and this Court also granted stay of investigation by order dated 05.01.2015.

4.The learned counsel appearing for the petitioner submitted that since the defacto complainant is working as a Inspector of Police in the respondent police station, investigation will be conducted in proper manner. Hence, this petition has been filed to transfer the investigation to the third respondent police.

5.The learned Additional Public Prosecutor appearing for the respondents submitted that the complaint has been given by one K.Muthukrishnan, who was working as Inspector of Police, Manamadurai Police Station and now he was transferred to some other Police Station. He further submitted that in view of the stay granted by this Court, the respondent police is not in a position to conduct investigation, that apart, as many as 10 previous cases are pending against the petitioner with regard to theft of sand and other offences in various police station including the second respondent police station. He also submitted that the petitioner is a habitual offender only in order to delay the investigation he has filed this transfer petition.

6.A perusal of records, it is seen that the main reason seeking for transfer of investigation is that the defacto complainant himself is a Inspector of Police, in the second respondent Police Station, hence, no fair investigation will be conducted. Now, it is submitted that the defacto complainant has been transferred to some other police station, that apart, the petitioner is a habitual offender and as many as 10 similar case are pending in various Police Stations in Ramanathapuram District including the second respondent police.

7. Considering the facts and circumstances of the case and also considering the fact that the defacto complainant was transferred to some other police, the relief sought for by the petitioner cannot be granted. Accordingly, this Criminal Original Petition is dismissed. Consequently, the interim order already granted by this Court on 05.01.2015, is also vacated. The second respondent police is directed to commence the investigation and file a final report, within a period of one month from the date of receipt of a copy of



this order. Considering the fact that the defacto complainant is a Police Officer, the Deputy Superintendent of Police, Manamadurai is directed to monitor the investigation. Consequently, connected Miscellaneous Petition is closed.

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Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

- 1.The Superintendent of Police,
Office of the Superintendent of Police,
Sivagangai District.
- 2.The Inspector of Police,
Manamadurai Police Station,
Sivagangai District.
- 3.The Inspector of Police,
CBCID, Sivagangai District.
- 4.The Deputy Superintendent of Police,
Manamadurai.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

gns

Cr1.O.P. (MD) No.23372 of 2014
19.07.2019

AM/SAR/06.08.2019/3P-6C