



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:15.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE **N.ANAND VENKATESH**

Crl.O.P. [MD] .No.1373 of 2017

WEB COPY

V.Nagarajan : Petitioner /Defacto Complainant
Vs.

1.The Deputy Superintendent of Police,
Karur Town, Karur.

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

3.The Superintendent of Police,
CBCID (South Zone),
CBCID Head Quarters,
Egmore, Chennai-18.

4.The Deputy Superintendent of Police,
C.B.C.I.D., Karur, Karur District. : Respondents/Investigating
Authority

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C. to transfer the investigation in Crime No.988 of 2011, on the file of the first respondent to the fourth respondent / The Deputy Superintendent of Police, C.B.C.I.D., Karur, Karur District and direct them to complete the investigation and file a final report.

For Petitioner : Mr.K.Baala Sundharam
For Respondents : Mr.K.Suyambulinga Bharathi
Government Advocate (Crl. side)

ORDER

This Criminal Original Petition was filed by the *de facto* complainant, who is a practising Advocate before this Court, seeking for transfer of investigation in Crime No.988 of 2011. It is seen from the records that the petitioner gave a complaint on 15.08.2011, to the Sub Inspector of Police, Karur Town Police Station, on the ground that he was brutally attacked by two un-known persons, who were said to have been engaged by the two named accused persons in the First Information Report. This incident had taken place on 14.11.2009 at about 07.30 p.m., and as a result of the incident, the petitioner had sustained head injuries and also cut injuries in his hand and fingers and injuries all over his body. It was further alleged that the henchmen were engaged by his relatives against whom a suit is pending in the District Court at Madurai.

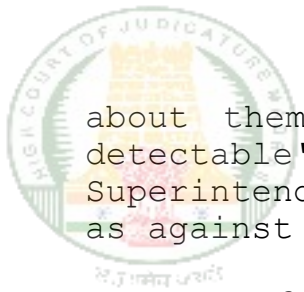


2. Initially, the petition came to be filed before this Court by the Madurai Bench High Court Advocate Association, seeking for giving directions to the Inspector of Police, Karur Town Police Station, to take necessary action in Crime No.988 of 2011. This petition came to be filed on the ground that no action was taken by the Police and the accused persons were not even arrested and since the Advocate belonging to the legal fraternity was attacked and there is no protection for him, the Association wanted to intervene and agitate this matter. During the pendency of this petition, a status report came to be filed by the Deputy Superintendent of Police, Karur Town Police Station, on 05.09.2011. Similarly, one more status report was filed by the Superintendent of Police of Karur District, on 14.11.2014. Ultimately, an order came to be passed by this Court on 14.11.2014, directing the Superintendent of Police, Karur District, to monitor the case and ensure the completion of the investigation within twelve weeks.

3. After directions were issued by this Court, a closure report came to be filed as 'un-detectable'. This was challenged before this Court in Crl.O.P.(MD.No.2992 of 2017 and this Court by an order dated 27.09.2019, has set aside the closure report and directed for the continuation of the investigation in accordance with law.

4. Mr.K.Baalasundharam, learned counsel appearing on behalf of the petitioner submitted that the respondent Police are intentionally not showing any interest in this case and it is unfortunate that the accused persons were not even arrested in this case. The learned counsel submitted that even though two status reports were filed, one by the Deputy Superintendent of Police and other by the Superintendent of Police, verbatim, the same facts were repeated and that itself shows that the Police are not taking any interest in investigating the case. The learned counsel submitted that the petitioner was brutally attacked and he sustained grievous injuries all over his body. If such cases are not investigated in a proper perspective, people will lose faith over the system. Therefore, the learned counsel sought for transfer of investigation to any independent agency.

5. Per contra, Mr.K.Suyambulinga Bharathi, learned Government Advocate (Criminal side) appearing for the respondents, submitted that investigation was transferred to the Deputy Superintendent of Police, Karur District and it was also monitored by the Superintendent of Police, Karur. The learned Government Advocate further submitted that the status report was also filed before this Court, explaining the various steps that were taken to find out the culprits. He further submitted that in spite of forming a special party, the two accused persons, who attacked the petitioner, remain to be elusive and there was absolutely no clue



about them and therefore, the closure report was filed as 'un-detectable'. He submitted that the case was duly monitored by the Superintendent of Police, Karur and no deficiency can be pointed out as against the Police.

6. This Court has carefully considered the submissions made on either side and the materials available on record.

7. This is a case where an Advocate, who is practising before this Court was brutally attacked by two persons, resulting in grievous injuries all over his body. The complaint was given immediately to the Inspector of Police, Karur Town Police Station and in spite of the same, there was absolutely no progress in the investigation. This Court gave several opportunities by even transferring the case to the file of the Deputy Superintendent of Police, Karur and directed the Superintendent of Police, Karur to monitor the investigation. The only result that has come out is that they are not even able to trace the accused persons. On this ground, even a closure report was filed as 'un-detectable', and this Court had to set aside the closure report on the ground that such a closure report cannot be filed and the accused remaining un-detectable is only a stage in investigation and it cannot be a ground for closing the case.

8. This Court has given a sufficiently long rope to the respondent Police and unfortunately nothing has come out of the investigation. Infact, on referring to the CD file, several deficiencies and shortcomings are noted. Therefore, in the interest of justice, it has become expedient for this Court to transfer the investigation in this case to some other independent agency.

9. In view of the above, the investigation in Crime No.988 of 2011, is hereby transferred to the file of the Deputy Superintendent of Police, C.B.C.I.D., Trichy Range. The Deputy Superintendent of Police, Karur, shall handover the entire CD files to the Deputy Superintendent of Police, CBCID, Trichy Range, within a period of two weeks, from the date of receipt of copy of this order. Immediately, on receipt of the CD file, the Deputy Superintendent of Police, C.B.C.I.D., Trichy Range, shall allot this case to the Inspector of Police and the concerned Police shall commence the investigation immediately and take action against the accused persons in accordance with law. It goes without saying that the independent agency shall effectively conduct the investigation and complete the same as expeditiously as possible. The case has already dragged on for the last eight years and the petitioner is still knocking the doors of this Court for justice.

10. This Criminal Original Petition stands disposed of with a direction to the Deputy Superintendent of Police, C.B.C.I.D., Trichy Range, to complete the investigation, within a period of



three months from the date on which the CD files are handed over by the Deputy Superintendent of Police, Karur.

Sd/-

Assistant Registrar ()

WEB COPY

// True Copy //

Sub Assistant Registrar(CS)

tsg

To

- 1.The Deputy Superintendent of Police,
Karur Town, Karur.
- 2.The Superintendent of Police,
Karur District, Karur.
- 3.The Superintendent of Police,
CBCID (South Zone),
CBCID Head Quarters,
Egmore, Chennai-18.
- 4.The Deputy Superintendent of Police,
C.B.CI.D., Karur, Karur District.
5. The Deputy Superintendent of Police,
C.B.C.I,D., Trichy Range.
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to Mr.K.BAALASUNDHARAM, Advocate (SR-98980[F] dated 18/11/2019)

**Cr1.O.P. [MD] .No.1373 of 2017
15.11.2019**

VB(27.11.2019) 4P 8C