

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 14.07.2020
CORAM
THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN
CRL.O.P.No. 1384 of 2020
and
Crl.M.P.No.837 of 2020

1. S.Thamaraikani,
S/o. Subramani,
8, Mariyamman Kovil Street,
Vellottamparappu,
Erode District - 638 154.
2. S.Mahendhiran
S/o. Selvaraj,
40, Perumpalayam,
Pasur Via,
Vellottamparappu,
Erode District - 638154.
3. R.Nachimuthu
S/o. Ramasamy,
10, Mariyamman Kovil Street,
Vellottamparappu,
Vellottamparappu Post,
Pasur (via),
Erode District - 638 154.
4. J.Krishnamoorthi
S/o. Jaganathan
30, Main Street,
Erode - 638 514.
5. K.Balasubramaniam
S/o. Kumaravel
18, Mariyamman Kovil Street,
Vellottamparappu,
Erode District - 638 154.

... Petitioners

Vs

1. The Superintendent of Police,
District Superintendent of Police Office,
Gandhiji Road, Marapalam,
Erode - 638 001.

2. The Deputy Superintendent of Police,
District Superintendent of Police Office,
Gandhiji Road, Marapalam,
Erode - 638 001.

3. The Inspector of Police,
Malayampalayam Police Station,
Malayampalayam,
Erode District - 638 154.

4. The Special Sub Inspector of Police,
Malayampalayam Police Station,
Malayampalayam,
Erode District - 638 154.

(Crime No.218 of 2019) ... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to transfer the investigation in Crime No.218 of 2019 pending on the file of the third respondent to any other investigation agency by appreciating the above stated facts and circumstances.

For Petitioners : Mr.M.Guruprasad
For Respondents : Mr.S.Karthikeyan
Additional Public Prosecutor.

O R D E R

This petition has been filed to transfer the investigation in Crime No.218 of 2019 pending on the file of the third respondent to any other investigation agency by appreciating the above stated facts and circumstances.

2. The learned counsel for the petitioners submitted that the persons who committed offence are the complainants and investigated the matter. Therefore, they sent a detailed representation on 06.01.2020 to the higher officials stating all the facts with regard to the occurrence took place on 22.12.2019. Since no steps have been taken, they filed a petition seeking transfer of investigation from the hands of the third respondent to any other investigation agency. The learned counsel further submitted that the petitioners all are villagers and they do not have any knowledge to send a complaint immediately to the Human Rights Commission. Therefore, they sent a complaint after 15 days from the date of the occurrence as against all the higher officials.

3. The learned Additional Public Prosecutor submitted that the third respondent has registered a case and completed the investigation in connection with Cr. No.218 of 2019 and also filed a final report before the learned Judicial Magistrate, Kodumudi and the same has been taken cognizance and it is pending for trial. Therefore at this stage, the transfer of investigation cannot be permitted.

4. Considering the submission of the learned Additional Public Prosecutor and on perusal of records, it is seen that the investigation was completed in connection with Cr.No.218 of 2019 and also filed a final report by the third respondent and the same has been taken cognizance in C.C.No.6 of 2020 on the file of the learned Judicial Magistrate, Kodumudi. At this stage, the transfer of investigation does not arise and as such the prayer sought for in this petition is having become infructuous. Further, the petitioners are all accused persons, therefore they cannot choose investigation agency. Though, there is an allegation as against the investigation officer as stated in their representation dated 06.01.2020, the same cannot be considered now after taking cognizance in C.C.No.6 of 2020. However, the petitioner is at liberty to establish the fact before the trial Court during the trial.

Accordingly this Criminal Original Petition is dismissed. Consequently connected Miscellaneous Petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Judicial Magistrate,
Kodumudi.
2. The Superintendent of Police,
District Superintendent of Police Office,
Gandhiji Road, Marapalam, Erode - 638 001.
3. The Deputy Superintendent of Police,
District Superintendent of Police Office,
Gandhiji Road, Marapalam, Erode - 638 001.

4. The Inspector of Police,
Malayampalayam Police Station,
Malayampalayam, Erode District - 638 154.

5. The Special Sub Inspector of Police,
Malayampalayam Police Station,
Malayampalayam, Erode District - 638 154.

6. The Public Prosecutor,
High Court, Madras.

7.The Judicial Magistrate
Kodumudi

8.The Chief Judicial Magistrate
Erode

+1 cc to Mr.M.Guruprasad Advocate sr24757

CRL.O.P.No.1384 of 2020

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