

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2020

CORAM:

THE HONOURABLE Mr.JUSTICE P.RAJAMANICKAM

CRL.O.P.No.3428 of 2020

Murugan

... Petitioner

Vs.

1. The Superintendent of Police,  
Tiruppur District.
  2. The Deputy Superintendent of Police,  
Tiruppur District.
  3. The Inspector of Police,  
Kaniyur Police Station,  
Kaniyur, Tiruppur District.  
(Crime No. 15 of 2020)
- ... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to transfer the investigation of the case in Crime No.15 of 2020 on the file of the third respondent herein to the second respondent and to file a final report within time limit fixed by this Hon'ble Court.

For Petitioner : Mr. B.Kumarasamy

For Respondents : Mr.M.Mohamed Riyaz,  
Additional Public Prosecutor

O R D E R

This petition has been filed to transfer the investigation of the case in Crime No.15 of 2020 on the file of the third respondent to the second respondent.

2. The learned counsel for the petitioner has submitted that the petitioner belongs to Schedule Caste community (Hindu Madhari Arundhathiar). He further submitted that on 30.12.2019, the State Election Commissioner conducted Panchayat Election all over Tamil Nadu and the petitioner contested in the local panchayat election and he was elected as Ward Member, Thungavi Panchayat. He further submitted that one Mr.Eshvaran/1<sup>st</sup> accused contested for the post of Vice President and he made a request with the petitioner to vote for him but the petitioner refused. Thereafter, the panchayat announced that the said Eshvaran was defeated. After

announcing of the said result, the said Eshvaran and one Sakthivel abused the petitioner by saying his community name and assaulted him on 27.01.2020 at about 7.00 P.M and with regard to the aforesaid occurrence, for giving complaint, the petitioner went to the police station of Kaniyur on 27.01.2020 itself, and at that time, police asked him to come tomorrow and accordingly on 28.01.2020, he went to the said police station at 10.00 A.M for giving complaint. He further submitted that the police advised him to wait till 6.00 P.M and thereafter, the third respondent police prepared another false complaint and got signature from the petitioner.

3. The learned counsel for the petitioner further submitted that since the petitioner is an uneducated person, without reading the said complaint, he signed in the said complaint. Subsequently, the petitioner came to know that the FIR was registered unders Sections 294(b) and 506(i) of IPC only. He further submitted that since the petitioner was assaulted in the public view by using the petitioner's caste name, the provisions of SC/ST POA Act would attract. Hence, the petitioner has sent a complaint to the first respondent on 05.02.2020. He further submitted that suppressing the aforesaid fact, accused Nos.1 and 2 have filed anticipatory bail petition before this Court in Crl.O.P.No.2620 of 2020 and after knowing the said fact, the petitioner has filed intervening petition. He further submitted that when the said petition came up for hearing, the third respondent police has informed the Court that already the FIR was referred as mistake of fact and considering the same, this Court has dismissed the Crl.O.P.No.2620 of 2020. He further submitted that the third respondent, colluded with the accused Nos. 1 and 2 and registered the FIR under Sections 294 (b) & 506 (i) of IPC without incorporating the provisions of SC/ST (POA) Act and without conducting any investigation, referred the matter as mistake of fact and therefore, he prayed to setaside the said report and order for further investigation by transferring the investigation to the second respondent.

4. Per contra, the learned Additional Public Prosecutor has submitted that the petitioner is a Panchayat Ward Member and as such, he would not have signed in the complaint without perusing the same. He further submitted that the petitioner himself gave only a written complaint and in the said written complaint, no where it is stated that the accused persons have used the petitioner's caste in the public view. He further submitted that after receipt of the petitioner's written complaint, the third respondent has registered an FIR in Crime No.15 of 2020 under Sections 294(b) and 506 (i) of IPC and after investigation, it was found that the allegations made in the said complaint are not true. Accordingly the said FIR was referred to as mistake of fact and to that effect, a report was filed before the Judicial Magistrate, Madathukulam on 30.01.2020. He further submitted that under the said circumstances, he prayed to dismiss this

5. A perusal of the FIR shows that the petitioner herein has lodged a written complaint before the third respondent on 28.01.2020 at 6.30 P.M and after receipt of the said complaint, the third respondent has registered an FIR in Crime No.15 of 2020 under Sections 294(b) and 506(1) of IPC. Further, the petitioner has put his signature in the said FIR and received a copy of the said FIR. Under the said circumstances, the contention of the petitioner that the police themselves have prepared a complaint and obtained signature from him, cannot be accepted. Further, the petitioner is not an ordinary man. He is a Ward Member of a Panchayat and in such a case, he cannot contend that without knowing the contents of the complaint, he has signed in the complaint. In the said FIR, no where he has stated that the accused persons have humiliated him in the public view by saying his caste name. It appears that only as an after thought, the petitioner has sent a complaint to the first respondent on 05.02.2020 stating that the accused persons have committed offences under the Provisions of SC/ST POA Act also. Under the said circumstances, this Court is not inclined to set aside the report filed by the third respondent referring the matter as mistake of fact and to order for further investigation transferring to some other agency.

6. For the aforesaid reasons, this Criminal Original Petition is dismissed. It is open to the petitioner to avail any other remedy which is available under the law.

Sd/-  
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

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To

1. The Superintendent of Police,  
Tiruppur District.
2. The Deputy Superintendent of Police,  
Tiruppur District.
3. The Inspector of Police,  
Kaniyur Police Station,  
Kaniyur, Tiruppur District.
- 4.The Public Prosecutor, High Court, Madras.

+1cc to Mr.S.Gunalan, Advocate SR.No.13558

CRL.O.P.No.3428 of 2020

SR(CO)  
GMR(16/03/2020)