



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 06.01.2020

Delivered on: 22.01.2020

WEB COPY

CORAM

THE HONOURABLE Mr.JUSTICE P.RAJAMANICKAM

CrI.O.P.No.31099 of 2019

Pandeeswari

...Petitioner

Vs.

1.The Commissioner of Police
Veppery
Chennai.

2.The Inspector of Police
R-4, Soundara Pandiyanar Angadi P.S.,
Chennai 17.
(Cr.No.211 of 2018)

3.The Inspector of Police
CBCID
Veppery Chennai.

...Respondents

PRAYER: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, directing the first respondent to change the investigation agency in FIR in Crime No.211 of 2018 dated 13.08.2018 from the second respondent to the third respondent pending on the file of the second respondent in accordance with law and to file a final report before the competent Court of law.

For Petitioner : Mr. G.Pavendhan

For Respondents : Mr. M.Mohamed Riyaz

Additional Public Prosecutor

ORDER

This petition has been filed by the defacto complainant to direct the first respondent to transfer the investigation in Crime No.211 of 2018 from the second respondent to the third respondent.

2. Heard Mr.G.Pavendhan, learned counsel for the petitioner and Mr.Mohamed Riyaz, learned Additional Public Prosecutor for the respondents.



3. The learned counsel for the petitioner has submitted that one A.G.Babu was employed in petitioner's company as a Cashier and distributor of moneys due to the company and he was entrusted with all the works connected with money transactions. He further submitted that the said A.G.Babu had opened the locker by using duplicate key and taken the amount of Rs.19,63,316/- and misappropriated the same and hence, the petitioner has lodged a complaint before the second respondent. Based on the same, the second respondent has registered an FIR in Crime No.211 of 2018 under Sections 406 and 420 of IPC. He further submitted that during investigation, though the second respondent has arrested the accused A.G.Babu, he has not taken any steps to recover the amount. He further submitted that since huge amount has been misappropriated by the accused, the second respondent ought to have taken steps to recover the said amount but he has not shown any interest to recover the amount and hence, he requested to direct the first respondent to transfer the investigation to the third respondent.

4. Per contra, the learned Additional Public Prosecutor has submitted that though the offence is said to have been committed by the accused on 23.07.2018, the petitioner has lodged a complaint only on 13.08.2018 and on receipt of the said complaint, immediately, the second respondent has registered an FIR and took the matter for investigation. He further submitted that since the accused is a native of Karnataka State, the second respondent has deputed the police to find out the whereabouts of the accused and finally on 27.02.2019 based on the secret information received by him, arrested the accused at Saidapet, Chennai, and interrogated him. The accused, during interrogation, has stated that out of the amount he has taken from the petitioner's company, he is having only Rs.6,35,000/- and he spent the remaining amount and hence, the said amount was seized under a mahazar and thereafter, the accused was remanded to Judicial Custody. He further submitted that the accused moved this Court seeking bail in CrI.O.P.No.11236 of 2019 and this Court has granted bail to the accused by the order dated 26.04.2019. He further submitted that the second respondent is sincerely and effectively investigating the matter and therefore, he prayed to dismiss this petition.

5. As per the directions of this Court, the learned Additional Public Prosecutor has submitted the CD file. A perusal of the CD file shows that on 27.02.2019, the accused A.G.Babu was arrested by the second respondent and the said accused gave a confession and the same has been recorded by the second respondent in the presence of two witnesses namely, 1) Inbaraj and 2) J.Pandian. In the said confession, the accused



has admitted that he has taken a sum of Rs.19,63,316/- from the locker of the petitioner's company. He further stated that out of the said amount, he discharged the debt of Rs.3,00,000/- which was borrowed by him from one Ranganath son of Sivanna and Rs.2,00,000/- from another Ranganath son of Thimmagouda.

6. He also stated that he already obtained a loan for his daughter's medical expenses from one Gopikrishna and he paid a sum of Rs.5,30,000/- to discharge the said debt to the said GopiKrishna. He further stated that the said GopiKrishna died in last November. He further stated that he paid a sum of Rs.2,00,000/- to one Thimmagouda for paying the said amount to the local police for not taking action against him and the said Thimmagouda also died. But the second respondent has not verified whether the aforesaid GopiKrishna and Thimmagouda are actually died or not. Further he has not taken steps to recover the amount from Ranganath son of Sivanna and another Ranganath, son of Thimmagouda. Therefore, this Court is of the view that the investigation should be transferred to the third respondent.

7. For the aforesaid reasons, this petition is allowed. The investigation is withdrawn from the second respondent in Crime No.211 of 2018 and transferred to the third respondent. The second respondent is directed to handover the entire case file to the third respondent within a week from the date of receipt of copy of this order. The third respondent is directed to investigate the matter in a fair manner and file a final report within a period of four months from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

dna

To

1.The Commissioner of Police
Veppery
Chennai.

2.The Inspector of Police
R-4, Soundara Pandiyanar Angadi P.S.,
Chennai 17.
(Cr.No.211 of 2018)



3.The Inspector of Police
CBCID
Veppery Chennai.

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4.The Public Prosecutor
High Court, Madras.

+1cc to Mr.G.Pavendhan , Advocate SR.No. 4291

CrI.O.P.No.31099 of 2019

A.SK(22/01/2020)