



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 26.06.2020

Pronounced on : 14.07.2020

CORAM

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Crl.O.P(MD)Nos.6658 and 6486 of 2020

and Crl.M.P(MD)Nos.3325 and 3367 of 2020

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Crl.O.P(MD)No.6658 of 2020

1.M.Sundaresan

2.M.Ilangovan

3.A.Muthumarudu

4.A.K.Sukumar

5.R.S.Ravichandran

6.Neela Manivasagan ... Petitioners/A1 to A6

Vs

1.The Inspector of Police,
District Crime Branch,
Ramanathapuram,
Ramanathapuram District. ... 1st Respondent / Complainant
[Crime No.37 of 2020]

2.Govindaraja ... 2nd respondent/
defacto complainant

Prayer: Petition filed under Section 482 of the Criminal Procedure Code, to call for the records pertaining to the impugned First Information Report in Crime No.37 of 2020 on the file of the first respondent Police and quash the same.

For Petitioners : Mr.Veera Kathiravan, Senior Counsel
for M/s Veera Associates

For Respondent : Mr.K.K.Ramakrishnan,
No.1 Additional Public Prosecutor

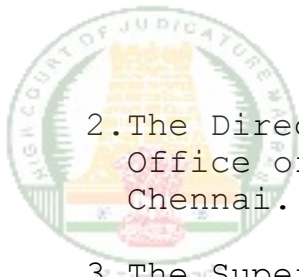
Crl.O.P(MD)No.6486 of 2020

M.Sundaresan ... Petitioner

Vs

1.The Secretary to the Government of Tamil Nadu,
Home Department,
Fort St. George, Chennai 600 009.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Director General of Police,
Office of the Director General of Police,
Chennai.

3.The Superintendent of Police,
Office of the Superintendent of Police,
Ramanathapuram.

... Respondents

Prayer: Petition filed under Section 482 of the Criminal Procedure Code, to direct the second respondent herein to transfer the investigation of the complaint given by the petitioner dated 01.06.2020 and 03.06.2020 from the investigating agency, within the time stipulated by this Court.

For Petitioner : Mr.Veera Kathiravan,
Senior Counsel ,
for M/s Veera Associates

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

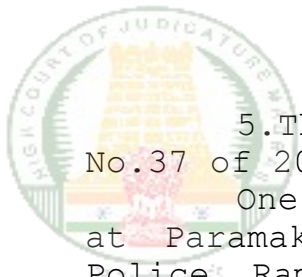
COMMON ORDER

The petitioners /accused Nos.1 to 6 in Crime No.37 of 2020 on the file of the Inspector of Police, District Crime Branch, Ramanathapuram District, filed the petition in Crl.O.P(MD)No.6658 of 2020 to quash the proceedings pending against them in Crime No.37 of 2020.

2.The first petitioner/first accused filed the petition in Crl.O.P(MD)No.6486 of 2020 for a direction to the second respondent / the Director General of Police, Chennai to transfer the investigation of the complaints dated 01.06.2020 and 03.06.2020 from the file of the third respondent / the Superintendent of Police, Ramanathapuram to CBCID, Chennai or to any other investigating agency.

3.Since the issue involved in both these petitions is one and the same, they are heard together and disposed of by way of this common order. For the sake of clarity the parties are referred to as per the rank in Crl.O.P(MD)No.6658 of 2020.

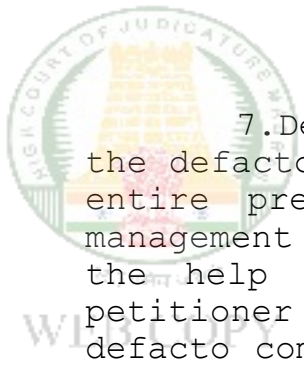
4.Mr.Veerakathiravan, learned Senior Counsel appearing for the petitioners submitted that the first petitioner is the Secretary, the petitioners 2 to 4 are Members, fifth petitioner is Treasurer and sixth petitioner is an Advocate and also Legal Advisor of an Educational Society namely, VOC Matriculation Educational Society [herein after shall be referred to as 'the Society'] at Paramakudi. These petitioners have been falsely roped in as accused in the case in Crime No.37 of 2020 by the Inspector of Police, District Crime Branch, Ramanathapuram for the offence punishable under Sections 448, 420, 465 and 406 IPC.



5.The gist of the First Information Report in Crime No.37 of 2020 is as follows:

One Govindharaja, second respondent Treasurer of the Society at Paramakudi, lodged a complaint before the Superintendent of Police, Ramanathapuram on 08.06.2020, who in turn forwarded the same to the Inspector of Police, District Crime Branch, Ramanathapuram in C.No.69/camp/SP-RMD/2020, dated 08.06.2020, whereas it is stated that the defacto complainant and his team were elected as Office Bearers of the Society on 20.01.2019 in the General Body Meeting held at Paramakudi and they have also submitted Form VII before the District Registrar, Sivagangai, who accepted the same on 08.02.2019. Subsequent to their election, the newly elected Office Bearers requested the first accused / first petitioner to furnish the accounts to the Society, but he did not furnish the accounts and therefore, the defacto complainant had earlier lodged a complaint before the Deputy Superintendent of Police, District Crime Branch, Ramanathapuram. However, the Deputy Superintendent of Police, acted in favour of the accused, also gave pressure to the District Registrar, Sivagangai and obtained two proceedings dated 06.03.2019 and 07.03.2019 in favour of the first accused. On the strength of those proceedings, the Deputy Superintendent of Police, District Crime Branch, Ramanathapuram dispossessed the defacto complainant and his team from the management of the Society and also allowed the first petitioner and his team to illegally take possession of the Society. It is further stated in the complaint that in the election held on 07.10.2016, some bogus records have been created, as if one Saravanan had also participated in the election and voted in favour of the accused, while he was in treatment in a hospital on 07.10.2016. Likewise, one Guru Jeyaraman lodged a complainant that he also did not attend the meeting and did not sign in any resolution. However, forged registers have been created in the name of said Guru Jeyaraman and five others, as if, they have participated in the election. The complainant further states that the Deputy Superintendent of Police, District Crime Branch, Ramanathapuram received Rupees Ten Lakh as illegal gratification from the accused and thus registered a false case as against the defacto complainant and his team.

6.Learned Senior Counsel appearing for the petitioners would further submit that the first petitioner was elected as Secretary of the Society on 24.04.2016 and thereafter, one Guru Jeyaraman and others gave a complaint to the District Registrar, Sivagangai disputing the election levelling certain allegations. On such allegations, the District Registrar, Sivagangai by proceedings dated 07.12.2018 ordered for a fresh election for the Society and the same was questioned by the first petitioner / first accused in W.P(MD)No.24706 of 2018, wherein, this Court after satisfying with the grounds raised in the petition has also granted an order of interim stay in favour of the first petitioner by order dated 14.12.2018.



7.Despite the interim order of stay granted by this Court, the defacto complainant and his team have illegally dispossessed the entire premises of the matriculation school and took over the management of the Society on 01.06.2020 in a high handed manner with the help of certain police officials and therefore, the first petitioner has initiated a contempt proceedings as against the defacto complainant and other Police officials, who have helped the defacto complainant. To safeguard themselves from contempt proceedings and to intimidate the petitioners from pursuing the contempt proceedings, this FIR has been falsely foisted.

8.One Guru Jeyaraman gave a complaint before the District Crime Branch, Ramanathapuram against one Guru Subramanianm and others stating that he did not participate in the General Body Meeting and he did not sign in any minutes. It is also stated that five other Members also did not attend the meeting and did not sign in any minutes. Based on this complaint, a case in Crime No.12 of 2019 on the file of the District Crime Branch, Ramanathapuram has already been registered and the present complaint in Crime No.37 of 2020 is made as against the Deputy Superintendent of Police, as if the case in Crime No.12 of 2019 was registered by the Deputy Superintendent of Police by receiving Rupees Ten Lakh as illegal gratification. This complaint itself is foisted in order to escape from the investigation in Crime No.12 of 2019.

9.With regard to the averment that the District Registrar, Sivagangai was intimidated by the Deputy Superintendent of Police and two proceedings dated 06.03.2019 and 07.03.2019 were forcibly obtained from her in favour of the petitioners under threat and coercion, there is no such complaint whatsoever by the said District Registrar so far. Moreover, the District Registrar also retired from service. In the absence of any complaint from the said affected District Registrar, it is not proper for the respondent Police to register a case making averment as against the Deputy Superintendent of Police, as if he received Rupees Ten Lakh, as bribe and also intimidated the District Registrar to issue proceedings as to his whims and fancies. The allegations are bald and wild without any piece of materials and such allegations are levelled only to wreck vengeance against the petitioners. Even the allegation that one Saravanan was taking treatment in the hospital on 07.10.2016, but records have been created, as if the said Saravanan had participated in the General Body Meeting held on 10.01.2016 and also signed in the meeting cannot be substantiated in the absence of any complaint from the said Saravanan and therefore, the learned Senior Counsel submitted that the FIR itself has been maliciously instituted to wreck vengeance against the petitioners and his team for having initiated contempt proceedings against the defacto complainant and his team.

10.Considering the serious allegations made in the First Information Report as well as in these petitions, this Court



directed the Superintendent of Police, Ramanathapuram to file a report in this matter and accordingly, the Superintendent of Police, Ramanathapuram filed a status report dated 24.06.2020, that the complaint received by him from one Guru Subramanian that the Deputy Superintendent of Police, who dealt with the case in Crime No.12 of 2019 by misusing his powers registered a case, after obtaining Rupees Ten Lakh from one Jeyaraman as bribe and a CD containing the statement of Mr.Jeyaraman by way of a video saying that he gave Rupees Ten Lakh to the Deputy Superintendent of Police, for registering the FIR in Crime No.12 of 2019, was also enclosed. That apart there is allegation that the Deputy Superintendent of Police had compelled the District Registrar, Sivagangai to get an opinion in favour of the accused and also obtained a statement on 07.03.2019 contrary to the statement dated 06.03.2019. Further, the District Registrar also accepted the compulsion and the pressure given by the Deputy Superintendent of Police, in the proceedings pending before this Court in WP(MD)No.5955 of 2019 as well as before the District Munisif Court in O.S.No.51 of 2019 by way of counter affidavits. Since the allegations appear to be very serious in nature supported by CD and the counter affidavits filed by the District Registrar, before this court as well as before the Civil Court, the Superintendent of Police verified the allegations through another Deputy Superintendent of Police, Tiruvadanai and the said Deputy Superintendent of Police, has submitted a report on 22.05.2020 making adverse remarks against the Deputy Superintendent of Police and the Inspector of Police. The DSP also extracted the crux of the report as follows:

- *That appears to be the dispute in respect of the election conducted on 09.01.2019.*
- *A complaint was made by one Jeyaraman, complainant in Crime No.12 of 2019, who belongs to the Group of the petitioner Mr.Sundaresan on 25.03.2019 stating that the signatures of the members have been forged in the meeting. The same was forwarded to the DSP Mr.Ravindra Prakash.*
- *Similarly, from the group of Gurusubramanian, one Muthuramalingam made a complaint on 13.05.2019 stating that his signature has been forged in the meeting dated 07.10.2016 claimed by the petitioner and the signature of one another member Mr.Saravanan also forged.*
- *It appears that the complaint of the petitioner ground culminated in registering the FIR in Crime No.12 of 2019 dated 28.05.2019 for the offence under Section 465, 468, 479 and 420 of IPC by the District Crime Branch by obtaining permission of in-charge Superintendent of Police namely the Superintendent of Police of Sivagangai under the regular Superintendent of Police was on leave for a week.*



- The CD containing Video record has been produced in support of the complaint that the statement of Jeyaraman that he and others gave Rs.10/- Lakh for registering the FIR to the DSP, Mr.Ravindra Prakash.
- The report also contains that the affidavit filed by the District Registrar regarding the coercion and compulsion made by the DSP Mr.Ravindra Prakash to give a statement dated 07.03.2019 in favour of the petitioner herein, when the DR on 06.03.2019 gave a statement in writing to the effect that in view of the stay granted by this Hon'ble and the nature of dispute it is to be decided by the Civil Court, as such both parties are to be directed to approach civil Court.
- It appears that this statement was given in response to the summons issued by the DSP on 04.03.2019. In the version of the District Registrar in the counter affidavit and as well as the written statement mentioned above she has stated that even after her statement given on 06.03.2019, the DSP, Mr.Ravindra Prakash compelled to give his opinion and thus the compulsion and pressure she gave the statement.
- Therefore, the report concluded suitable action to be taken by conducting enquiry in view of the serious allegation of bribe and compulsion and threat made against the District Registrar, by abusing the powers by DSP Mr.Ravindra Prakah and the Inspector of Police.
- The other complaint preferred by one Muthuramalingam, who belongs to another group on 13.05.2019 stating that he had not signed in the meeting and his signature was forged and the signature of one M.Saravanan also disputed by him. The same was also forwarded to the DSP, Mr.Ravindra Prakash but no action taken against the same.
- In that regard the said Muthuramalingam filed a petition in Crl.M.P.No.119 of 2019, before the Judicial Magistrate No.2, Ramanathapuram and the same was favourably ordered on 21.06.2019, but the DSP Mr.Ravidnra Prakash did not register the case. Hence again the petition in Crl.O.P(MD)No.12862 of 2019 was filed before this Hon'ble Court by him on 09.09.2019 and thereafter the FIR in Crime No.21 of 2019 was registered against the petitioner and others for the offence under Section 465, 468, 479 and 420 of IPC by the District Crime Branch, Ramanathapuram.
- The report further says that when the complaint of the petitioner group was taken and FIR was registered during the one week absence of regular Superintendent of Police, Ramanthapuram by obtaining permission from



the In-charge Superintendent of Police of Sivagangai on 25.08.2019, no steps taken against the complaint of Muthuramalingam, which was made on 13.05.2019, despite the order passed by the learned Magistrate on 21.06.2019 and after filing of the petition before this Hon'ble Court. In respect of the complaint of Muthuramalingam, the same was closed as mistake of fact pointing out a minor mistake in mentioning the signature as digital signature in the petition filed before the Magistrate Court by the Advocate in Cr.M.P.NO.2213 of 2019.

- The report further pointed out that there was no arrest of accused in the Crime No.21 of 2019 and they also did not obtain any anticipatory bail but the case was closed within 3 ½ months as mistake of fact by obtaining a forensic report by the DSP Mr.Ravindra Prakash.
- The report further says in Crime No.21/2019, the signature of one Saravanan also available but he had filed a notary affidavit stating that he did not sign in the meeting and he was admitted as in-patient between 05.10.2016 to 17.10.2016 in the Preethi Hospital due to the operation made in his left thigh bone and he has also produced all the records. But the DSP Mr.Ravindra Prakash has closed this case as mistake of fact by obtaining statement from other members as if regular practice of Society is to obtain signature later from those who did not attend the meeting. He has not even sent the signature for forensic opinion."

11. Being satisfied with the report of the Deputy Superintendent of Police, Tiruvadanai, dated 22.05.2020 and all the materials enclosed with the complaint, the Superintendent of Police, forwarded the complaint to the Inspector of Police, District Crime Branch, Ramanathapuram, who in turn registered a case in Crime No.37 of 2020 as against the petitioners for the offence under Sections 448, 420, 465 and 406 IPC.

12. The Superintendent of Police in his report further stated that as against the erring officials namely DSP Ravindra Prakash and the Inspector of Police Jeya Britta an enquiry is also contemplated through the Additional Superintendent of Police, CWC.

13. This Court paid its anxious consideration to the rival submissions made on either side and also perused the materials placed before this Court.

14. In the complaint in Crime No.37 of 2020 very serious allegations are made that the Deputy Superintendent of Police, District Crime Branch, Ramanathapuram by misusing his position



received a sum of Rupees Ten Lakh as illegal gratification and conducted a biased investigation in Crime No.12 of 2019 and these allegations are also supported with a statement as a video. That apart, the District Registrar, Sivagangai issued statement on 06.03.2019 and gave another statement on 07.03.2019 also filed a counter affidavit before this Court as well as before the Civil Court that the said report has been obtained on compulsion and pressure made by the Deputy Superintendent of Police Ravindra Prakash. The complaint also refers to certain creation of bogus records. Though there are several allegations made in the complainant, the sum and substance of the complaint is the Deputy Superintendent of Police, District Crime Branch, Ravindra Prakash and the Inspector of Police Jeya Britta have received Rupees Ten Lakh for conducting biased investigation, threatened the District Registrar to submit the report according to their whims and fancies and thereby, favoured a group to take over the administration of the Society.

15.The Educational Societies are formed with a noble object for providing education to the needy and downtrodden. This Educational Society functioning in the name of an eminent Freedom Fighter V.O.Chidamabaram Pillai called as Kappalottiya Tamizhan, who is known for his intense sacrifice to this nation in reviving India's Shipping Company and his contribution to the nations freedom in the freedom fight. No irregularities or malpractices in the institution run in the name of VOC can be allowed to take place and the infighting people in the Educational Society to acquire the administration, if stooped to the level of bribing the Police officers, it has to be investigated thoroughly and such persons can never be allowed to run the administration of an Educational Society run in the name of freedom fighter VOC. The report of the Superintendent of Police bring to the mind of this Court the proverb "Fence itself eating the crop".

16.The available materials do constitute prima facie for registering of criminal case and therefore, this court is not inclined to quash the first information report at the threshold without any investigation. The main allegation in the complaint is as against the DSP that he had received illegal gratification and therefore, it would be appropriate that investigation has to be carried out by the Vigilance and Anti Corruption Department.

17.Accordingly the petition in Crl.O.P(MD)No.6658 of 2020 is disposed of with the following directions:

i.The Superintendent of Police, Ramanathapuram is directed to hand over the case files in crime No.37 of 2020 forthwith to the Deputy Superintendent of Police, Vigilance and Anti Corruption, Ramanathapuram.



ii.The Director of the Vigilance and Anti Corruption Department shall pass necessary orders either to conduct preliminary enquiry or to proceed with the case in crime No.37 of 2020 by an Officer in the rank of Deputy Superintendent of Police of Vigilance and Anti Corruption Wing, either from Ramanathapuram or from a nearby district.

iii.The DSP, Vigilance and Anti Corruption, Ramanathapuram shall collect all the materials on the allegations of Deputy Superintendent of Police, Ravindra Prakash and the Inspector of Police Jeya Britta and if there are materials against them, register a case against them and conduct an investigation in accordance with law without any further delay.

iv. The entire investigation shall be completed within a period of six months from the date of receipt of a copy of this order.

18.Insofar as the petition in Crl.OP(MD)No.6486 of 2020 is concerned, the petitioner sought for a relief to transfer the investigation of the complaint given by him on 01.06.2020 and on 03.06.2020 to the CBCID, Chennai.

19.When this Court raised a query with regard to the maintainability of this petition, the learned Senior Counsel for the petitioner requested to amend the prayer to that of a direction to take action on the petitioner's complaints alone. Even on this request also this Court is not inclined to entertain this petition that this petitioner naturally would be having grudge against the Superintendent of Police, who forwarded the complaint for registering a case against him. The Superintendent of Police, in his status report has also stated that he merely forwarded the complaint made against the Deputy Superintendent of Police, for an enquiry by another Deputy Superintendent of Police and only after satisfying with the preliminary report, forwarded the complaint to the Inspector of Police, District Crime Branch, for necessary action and therefore, this Court cannot find fault with the action on the part of the Superintendent of Police in forwarding the complaint for necessary action. Moreover, the relief sought for in this petition is also not maintainable. Accordingly, the Criminal Original Petition in Crl.OP(MD)No.6486 of 2020 is dismissed. Consequently, connected miscellaneous petitions are closed.

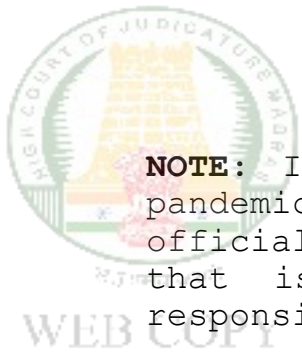
Sd/-

Assistant Registrar

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/ /2020

Sub Assistant Registrar(CS)



NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Secretary to the Government of Tamil Nadu,
Home Department, Fort St George,
Chennai 600 009.
- 2.The Director General of Police,
Office of the Director General of Police,
Chennai.
- 3.The Superintendent of Police,
Office of the Superintendent of Police,
Ramanathapuram.
- 4.The Inspector of Police,
District Crime Branch,
Ramanathapuram.
Ramanathapuram District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 6.The Deputy Superintendent of Police,
Vigilance & Anti Corruption,
Ramanathapuram.
- 7.The Director,
Vigilance and Anti Corruption Department,
Chennai - 600 016.

Crl.O.P(MD)Nos.6658
and 6486 of 2020
14.07.2020

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SDS (21.07.2020) 10P-8C