



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.08.2020**

CORAM:

THE HONOURABLE MR.JUSTICE **R.PONGIAPPAN**

CrI.O.P.[MD]No.8101 of 2020

N.Thirumalai

... Petitioner

Vs.

1.The Superintendent of Police,
Kanyakumari District.

2.The Sub Inspector of Police,
Vellichanthai Police Station,
Kanyakumari District.
(Crime No.175 of 2020)

... Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to order the transfer of investigation in Crime No.175 of 2020 pending on the file of the second respondent to any other competent authority for fair and speedy investigation within a reasonable time.

For Petitioner : Mr.R.Russel Raja

For Respondents : Mr.S.Chandra Sekar
Additional Public Prosecutor

O R D E R

This criminal original petition has been filed seeking a direction to direct the first respondent to transfer the investigation in Crime No.175 of 2020 pending on the file of the second respondent to any other competent authority for fair and speedy investigation.

2.The learned counsel for the petitioner would submit that in earlier, based on the complaint given by the petitioner, the first respondent registered a case under Sections 147, 148, 294(b), 323, 324, 380, 506(ii) of I.P.C. and Section 4 of TNPHW Act. After



registering the case, without examining the petitioner, the second respondent herein *suo-motu* recorded 161(3) statements as if the same was recorded after examining the petitioner. He would further submit that without examining the independent witnesses, the second respondent herein came to the conclusion that there was no *prima facie* case for the offences under Sections 380 and 506(ii) of I.P.C. Hence, he prayed to change the investigation in Crime No.175 of 2020.

3.The learned Additional Public Prosecutor appearing for the respondents, on instructions, would submit that after registration of the case, the second respondent herein completed the investigation after examining three independent witnesses and five official witnesses. According to him, during the time of investigation, the charges have been altered only for the offences punishable under Sections 294(b) and 506(ii) of I.P.C. He would further submit that the second respondent has properly investigated the matter and due to the previous enmity, the petitioner has filed this application without any truth.

4.Upon considering the arguments advanced by either side, it is a settled position that this Court cannot direct the Investigation Officer to investigate the issue in a particular manner. However, during the time of occurrence, the accused used the wooden log for assaulting the petitioner. Further the discharge summary issued to one Ajith, who is also injured in this case, reveals the fact that he sustained fracture in the parietal bone. Even after knowing the same, the second respondent, who is the Investigating Officer altered the section of law for the offence punishable under Section 294(b), 323 and 506(ii) of I.P.C. Therefore, the said circumstances discloses the fact that the Investigation Officer is not performing his duty with care and caution.

5.In view of above, I am of the considered view that it is a fit case to change the investigation. Accordingly, the first respondent is directed to pass an order for changing the investigation from the hands of the second respondent to any other investigation officer not below the rank of second respondent within a period of two weeks from the date of receipt of a copy of this order. This Criminal Original Petition is allowed accordingly.

Sd/-

Assistant Registrar ()

// True Copy //

/ /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 Superintendent of Police,
Kanyakumari District.
- 2.The Sub Inspector of Police,
Vellichanthai Police Station,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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