



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 10.02.2020
CORAM:

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.(MD).No.9175 of 2019
and
Crl.M.P.(MD).No.5817 of 2019

A.Chidambaram

.. Petitioner

Vs.

1.The Superintendent of Police,
Sivagangai District,
Sivagangai.

2.The Deputy Superintendent of Police,
Thirupathur Taluk,
Sivagangai District.

3.The Inspector of Police,
Nachiyapuram Police Station,
Thirupathur Taluk,
Sivagangai District.

4.The Inspector of Police,
CBCID,
Sivagangai District.

.. Respondents

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to transfer the investigation in Crime No.24 of 2019 dated 15.02.2019 from the third respondent police to the fourth respondent CBCID.

For Petitioner : Mr.G.Sathish

for Mr.B.Prasanna Vinoth

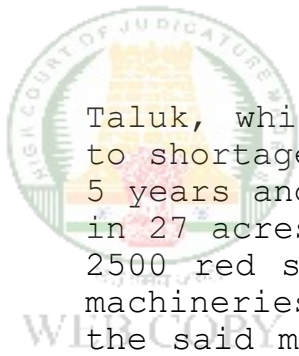
For Respondents : Mr.S.Chandrasekar

Additional Public Prosecutor

O R D E R

This petition has been filed to transfer the investigation in Crime No.24 of 2019 dated 15.02.2019 from the third respondent police to the fourth respondent CBCID.

2.The learned counsel appearing for the petitioner would submit that the petitioner is the Managing Director of Kathirvel Textiles Private Limited, Karaikudi-Thiruppathur Road, Thiruppathur



Taluk, which is involved in the business of textile industry. Due to shortage of raw materials, the mill is not being run for the past 5 years and it was in a closed condition. The said mill is situated in 27 acres of land, in which a building and more than 3500 teak and 2500 red sander trees are available. Apart from these, nine heavy machineries are also available. In order to maintain and protect the said machineries, the petitioner had appointed one Kandeegan as a care taker, who is an ex-employee of the same Textile Mill. The said Kandeegan had appointed one Ganesan and Raghavan as assistants for the watch and ward of the said Textile Mill. He would further submit that one Laxmanan, who is the former Managing Director, had violated the terms of agreement and reverted back the stand in order to extract money from the petitioner and therefore, the petitioner filed an arbitration case in O.P.No.142 of 2016 before the Principal Bench and for the above said reason, the petitioner was constrained to stay at Chennai. During that point of time, the petitioner came to know that one Kalangiam, who is the former employee of the above said mill along with his henchman made consecutive attempts to trespass into the mill premises and hence, the petitioner had obtained order of injunction against the said Kalangiam in Arbitration Case No.40 of 2016 dated 17.11.2018. On 24.11.2018, the petitioner went to the said mill along with his advocates and his brother-in-law viz., Saravanan. During inspection, it was found that the accused Kandeegan had committed theft of heavy machineries. Thereafter, the petitioner lodged a complaint, on 15.02.2019 the third respondent police has registered a case in Crime No.24 of 2019 for the offences under Sections 406, 420 and 380 r/w Section 34 of IPC. Though it is the case of theft of the heavy machineries by using trucks and though information were available with regard to the theft of the properties, the respondent had not conducted proper investigation thereby, the petitioner has filed the present petition seeking transfer of the case.

3.Mrs.D.Ananthi, the Inspector of Police, Thirupathur Town Circle, Sivagangi District had filed status report and the same is extracted hereunder:

1.I humbly submit that I am the investigating officer in this case and as such I am well acquainted with the facts of the case from the available records in our station.

2.I humbly submit that the FIR in Crime No.24 of 2019 for the offences under Sections 420, 406, 380 r/w Section 34 of IPC came to be registered by this first respondent police Station based on the complaint of the petitioner. The crux of the complaint is that the petitioner is Managing Director of M/S.Kathirvel Textiles Private Limited situated at Nachiyapuram, Thirupathur Taluk, Sivagangai District and the mill is not being run for a period of past 5 years and the same was in a



closed condition. The petitioner appointed the first accused namely Kandeegan as care Taker of the Mill and the A1 appointed A2 Ganesan and A3 Raghavan as his assistants. While so, on 24.11.2018, when the petitioner came to his mill, to his shock and surprise, the valuable machineries like worth about 2 Crore rupees were found missing and the same were stolen by A1 to A3.

3.I humbly submit that after registering the FIR, I took up the case for investigation and arrested the A1 Kandeegan on 16.02.2019 and he gave confession about the involvement of one Kalangiyam in the above crime and he was the master brain of the above said crime. The confession statement of A1 reveals that one Lakshmanan was the previous owner of the Kathirvel Textiles Private Mill and at that point of time the A1 joined the said mill as store keeper. When the said Lakshmanan was the owner, the main accused Kalangiyam was working in the said mill as fitter and he was also an union leader. Subsequently in the year 2009, the said Lakshmanan was not in a position to run a mill and hence he decided to sell the mill. At this Juncture, the said Kalangiyam introduced one Chidambaram who is the Defacto complainant herein to the previous owner Lakshmanan. Subsequently, the said Chidambaram had purchased the mill for a sale consideration of Rs.5,20,00,000/-. After purchasing the mill, Chidambaram relieved all the previous employees. At the recommendation of Kalangiyam, the new owner Chidambaram retained the A1, a2 Ganesan who was working as gardener and A3 Raghavan who was working as watchman in the mill. Since the previous owner Lakshmanan had some defaults in payment to the cotton suppliers of the mill due to which they stopped supply to the new owner Chidambaram. Due to the said reason, the mill was not functioning subsequently.

4.I humbly submit that the crux of the confession given by A1 is that in the meanwhile, the main accused Kalangiyam demanded brokerage commission from Chidambaram for purchasing the said mil. In this regard the said Kalangiyam had already threatened the Defacto complainant that he would have locked the mill. In the meanwhile, the said Kalangiyam had come to the mill and removed all the machineries and brought the same to Coimbatore. After getting confession from A1, we have implicated the said Kalangiyam was also one of the accused.



5.I humbly submit that in the meanwhile, the said Kalangiyam filed Cr.M.P.No.437 of 2019 before the learned District Sessions Court, Sivagangai and obtained anticipatory bail in Cr.M.P.No.437 of 2019 dated 22.02.2019. The third respondent filed Crl.O.P.(MD).No.12478 of 2019 and the petitioner herein filed Crl.O.P.(MD).No.3869 of 2019 before this Court for cancelling the anticipatory bail which was granted for the said Kalangiyam by the Sessions Court.

6.I humbly submit that in the meanwhile, on 05.07.2019, the second respondent formed a Special Team headed by Mr.Sabaridasan, Sub-Inspector of Nerkuppa Police Station, Mr.Muthukaruppan, SSI, Mr.Ganapathy, HC 1056, Mr.Senthil Kumar, Constable 1170 and Mr.Fakruddin, 741 to recover the machineries. Thereafter, on 21.09.2019 and 22.09.2019, the third respondent inquired the said Kalangiyam by written questions and recorded his answers. As per the phone CDR of accused Kalangiyam, the third respondent found one Sathish Kumar, S/O.Muniyappan who belongs to Coimbatore who is doing a business of purchasing and selling old spare parts and machineries relate to textile business. Subsequently, the Social Sub-Inspector Mr.Muthukaruppan went to Coimbatore and searched and inquired about the said Sathish Kumar in Mani School, Lakshmi Mill, Codisia, Singanallur, Sai Baba Colony, Rathnapuri Areas. In this regard, the Special Team went to Coimbatore on 05.02.2020 and 06.02.2020 and searched the whereabouts of the suspected person Sathish Kumar and fixed information. Hence, the third respondent and the Special Team is taking effective steps to secure the machineries and arrest the real accused. In view of the above, this honourable Court may grant some more time to complete the investigation and file final report.

4.The learned Additional Public Prosecutor would submit that based on a complaint given by the petitioner, the third respondent police has registered a case in Crime No.24 of 2019 for the offences under Sections 406, 420 and 380 r/w Section 34 of IPC. He would further submit that the respondent police has duly conducted investigation in a fair manner. He would further submit that if the petitioner has any grievance against the third respondent, a direction may be issued to the first respondent to transfer the investigation.



5.Having gone through the status report, this Court is not satisfied with the manner in which the investigation has been conducted by the third respondent. Though heavy machineries were stolen and the case has been registered on 15.02.2019, no steps have been taken by the respondent police to trace and secure the properties till date. The investigation has been done in a lackadaisical manner.

6.In view of the same, the first respondent is directed to transfer the investigation in Crime No.24 of 2019 pending on the file of the third respondent to the fourth respondent. The fourth respondent is directed to continue with the investigation and file a final report within a period of four months from the date of receipt of a copy of this order.

7.With the above directions, this criminal original petition is disposed of. Consequently, the connected Crl.M.P.(MD).No.5817 of 2019 is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

vsg

To:

- 1.The Superintendent of Police,
Sivagangai District,
Sivagangai.
- 2.The Deputy Superintendent of Police,
Thirupathur Taluk,
Sivagangai District.
- 3.The Inspector of Police,
Nachiyapuram Police Station,
Thirupathur Taluk,
Sivagangai District.
- 4.The Inspector of Police,
CBCID,
Sivagangai District.
- 5.The Additional Public Prosecutor,
Madurai District, Madurai.



+1 CC to Mr.B.PRASANNA VINOTH,
10/02/2020)

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MK (28.02.2020) 6P 7C

Crl.O.P.(MD).No.9175 of 2019

Advocate (SR-5512[F] dated

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