



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.11.2020

CORAM :

THE HONOURABLE MRS.JUSTICE J. NISHA BANU

Crl.O.P.(MD).No.13016 of 2020

L.Mariya Arokiya Jegan

... Petitioner/Complainant

vs.

1)The Superintendent of Police,
Kanyakumari District.

2)State represented by
The Inspector of Police,
Vadacheri Police Station,
Kanyakumari District.
(Crime No.78/2016)

3)The Inspector of Police,
District Crime Branch,
Nagercoil,
Kanyakumari District.

... Respondents/Respondents

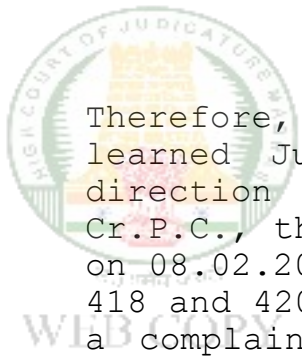
PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to change the investigation agency in respect of the case in Crime No.78 of 2016 on the file of the 2nd respondent to the 3rd respondent herein.

For Petitioner	: Mr.S.Ramasamy
For Respondents	: Mr.V.Neelakandan, Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed for a direction to change the investigation agency in respect of the case in Crime No.78 of 2016 on the file of the 2nd respondent to the 3rd respondent herein.

2.The learned counsel for the petitioner would state that the petitioner is doing business in the name and style of ''T.M.D. Earth Movers''. According to the petitioner, one Jeralt Majila who is a first Grade Contractor of Nagercoil Municipality approached him and offered him to do some work in the Municipality by stating that the petitioner will be entrusted with the work of taking wastage from one place to another and promised him to get work order from the officials of the municipality. Thereafter, the petitioner came to understand that the said Jeralt Majila and the officials of the municipality cheated him by non payment of the amount due.



Therefore, the petitioner filed a private complaint before the learned Judicial Magistrate-II, Nagercoil, and pursuant to the direction given by the learned Magistrate, under Section 156(3) Cr.P.C., the respondent/police registered a case in Crime No.78/2016 on 08.02.2016 for the offences under Sections 109, 120(b), 406, 415, 418 and 420 IPC. Though the petitioner in the earlier occasion gave a complaint before the respondent/police, they did not take any action and only after the private complaint, case was registered. The petitioner came before this Court seeking transfer of investigation in Crl.O.P(MD)No.4857/2016 and this Court directed the respondents to proceed with the investigation in Crime No.78/2016 under the supervision of the Deputy Superintendent of Police, Nagercoil Sub-Division. As per the said direction, the Deputy Superintendent of Police did not monitor the case and the 2nd respondent closed the case as ''further action dropped'' and therefore the petitioner filed a protest petition and the same was allowed on 09.10.2020 and thereafter, he has sent a representation to the 1st respondent for change of investigation, but no action was taken. Hence, this petition.

3.The learned Additional Public Prosecutor on instructions would submit that the 2nd respondent/Inspector of Police who investigated the case, closed the same as further action dropped and he would also fairly stated that the Deputy Superintendent of Police did not monitor the case as per the orders of this Court and therefore the petitioner filed protest petition and that was ordered.

4.Heard the learned counsel for the petitioner as well as the learned Additional Public Prosecutor for the respondents.

5.Considering the facts and circumstances of the case and considering the manner in which the investigation has been done inspite of the orders of this Court and it would be appropriate that the matter be referred to the 3rd respondent for investigation. Accordingly, the 2nd respondent shall place the entire case records before the 3rd respondent and the 3rd respondent shall investigate the matter and file a final report within a period of four weeks from the date of receipt of a copy of this order.

With the above direction, this Criminal Original Petition is allowed.

Sd/-

Assistant Registrar(P & A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



To

1) The Superintendent of Police,
Kanyakumari District.

2) The Inspector of Police,
Vadacheri Police Station,
Kanyakumari District.

3) The Inspector of Police,
District Crime Branch,
Nagercoil,
Kanyakumari District.

ORDER MADE IN
Crl.O.P(MD)No.13016 of 2020
DATED : 19.11.2020

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srk(CO)
TR(07.01.2021) 3P 4C