

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reservation	28.10.2020
Date of Order	27.11.2020

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THE HONOURABLE MRS. JUSTICE **T.KRISHNAVALLI****Cr1.OP(MD)No.10326 of 2017**

Hussain

: Petitioner

Vs.

1.The Commissioner of Police,
O/o.Commissioner of Police,
Madurai City.

2.The Deputy Superintendent of Police,
CBCID,
Madurai Region,
Madurai.

3.The Assistant Commissioner of Police,
Central Crime Branch,
Madurai.

4.The Inspector of Police,
Annanagar Crime Police Station,
Annanagar,
Madurai.

: Respondents

Prayer: Criminal Original Petition filed under section 482 of the Criminal Procedure Code, to transfer the investigation of the case in Crime No.1184 of 2017 from the 4th respondent to the 2nd respondent.

For Petitioners : Mr.S.M.A.Jinnah

For Respondents : Mr.K.Karmegam
Government Advocate
(Criminal side)

O R D E R**(Thro' VC)**

This Criminal Original Petition is filed to transfer the investigation of the case in Crime No.1184 of 2017 from the file of the 4th respondent to the 2nd respondent.

2.According to the de-facto complainant, he preferred a complaint stating that on 29.04.2017 at about 9.00 am, he and his friend namely one Balakrishnan are in his residence and his another friend namely Archunam sent one Kannan to his residence in connection with one Land Agreement and at that time, an unknown person knocked the front door of his residence, the de-facto



complainant opened the door and questioned him, for that he introduced himself as police and scolded the said Kannan and robbed Rs.2,00,000/- and his mobile phone.

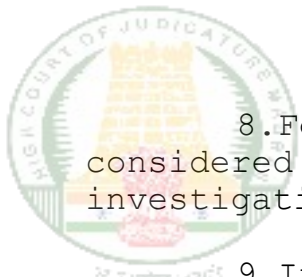
3. Heard the learned counsel appearing on either side and perused the materials available on record.

4. The petitioner states that since the accused is an police official, the investigation conducted by the 4th respondent is a biased one and hence, he filed this petition to transfer the investigation from the 4th respondent to the 2nd respondent.

5. In this case, on the side of the respondents, status report was filed. On perusal of the status report wherein it is stated that based on the first complaint given by the complainant, the then Commissioner of Police, Madurai City, by his order, in Na.Ka.No.R1/81/32112/17, dated 22.06.2017 directed the Assistant Commissioner of Police, Madurai City, to enquire the matter and as per the order of the Commissioner of Police, Madurai City, the Assistant Commissioner of Police, District Crime Branch, Madurai City conducted the enquiry and the Assistant Commissioner of Police, District Crime Branch, Madurai City, recommended the 4th respondent to conduct the enquiry on the basis of the petition given by the petitioner on 29.04.2017. On the report given by the Assistant Commissioner of Police, District Crime Branch, Madurai City, the 4th respondent/the Inspector of Police, Anna Nagar Crime Police Station, Madurai, took the investigation and examined all the witnesses and recorded their statements and filed the final report.

6. It is pertinent to note that the 3rd respondent already conducted enquiry and during his examination, the 3rd respondent found that this incident happened in connection with doubling of money.

7. In this case, the 4th respondent took the investigation, only on the basis of the report given by the 3rd respondent, the Assistant Commissioner of Police, District Crime Branch, Madurai City. It is stated in the status report filed on the respondents side that the 3rd respondent already conducted enquiry and during the enquiry, the 3rd respondent examined the witnesses and recorded their statements and only on the basis of the report given by the 3rd respondent, the 4th respondent took the investigation. Thereafter, the 4th respondent examined all the witnesses and filed the final report. In the report, it was stated that the case was closed as "Mistake of Fact". If the petitioner got any grievance against this order, the remedy open to him is to file protection petition against this order. Hence, it is not necessary to keep this petition pending. Further, it is pertinent to note that the First Information Report was not registered against the Sub Inspector of Police, Anna Nagar, but it was registered as against one Archunan and Annadurai and there was no bias on the part of the 4th respondent.



8. For the reasons stated above, this court is of the considered view that there is no necessity to transfer the investigation to any other agency.

9. In the result, this criminal original petition is dismissed. However, the petitioner is given liberty to file protection petition against the final report before the appropriate forum in the manner known to law.

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar (CS)

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To,

1. The Commissioner of Police,
O/o. Commissioner of Police,
Madurai City.
2. The Deputy Superintendent of Police,
CBCID,
Madurai Region, Madurai.
3. The Assistant Commissioner of Police,
Central Crime Branch, Madurai.
4. The Inspector of Police,
Annanagar Crime Police Station,
Annanagar,
Madurai.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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PK(CO)

AP(07/12/2020) 3P 6C