



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **19.02.2020**

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P. [MD] .No.19079 of 2019

Joseph Raja

: Petitioner

Vs.

1.The Commissioner of Police,
Madurai City, Madurai.

2.The Assistant Commissioner of Police,
Central Crime Branch, Madurai City.

3.The Inspector of Police,
Annanagar Police Station,
Madurai City.

: Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C. to direct the first respondent to withdraw the case in Crime No.1644 of 2018 from the file of the third respondent and transfer the same to the file of the second respondent with a direction to complete the investigation within the period that may be stipulated by this Court.

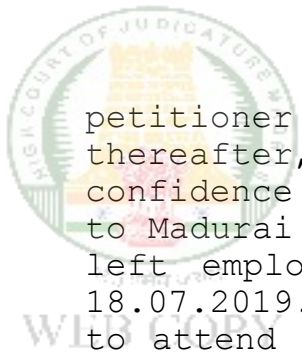
For Petitioner : Mr.R.Gandhi

For R1 to R3 : Mrs.S.Bharathi
Government Advocate (Criminal side)

ORDER

This Petition has been filed to direct the first respondent to withdraw the case in Crime No.1644 of 2018, from the file of the third respondent and transfer the same to the file of the second respondent with a direction to complete the investigation within the period that may be stipulated by this Court.

2. The case of the petitioner is that the petitioner was working as an Assistant Engineer at Union Office, Thiruppuvanam Town Panchayat and his wife is working as a Teacher in the Government School. Since both the petitioner and his wife were employed, they had engaged one Pushpam as a house maid at his residence for the past 2 ½ years to take care of the domestic chores. Originally, the



petitioner and his family members were living at Sivagangai and thereafter, they came down to Madurai. The said Pushpam gained the confidence of the petitioner's family members and she also came down to Madurai from Sivagangai. While things being so, the said Pushpam left employment and left the house without informing anybody on 18.07.2019. On 18.08.2018, the petitioner's wife was getting ready to attend a family function, when she opened the bureau, she found that her jewels were missing. Since the said Pushpam was the only person in the house other than the petitioner and his family members, they suspected that the said Pushpam would have stolen the jewels. Hence, the petitioner gave a complaint on 21.08.2018 before the concerned Police Station. On the same day, the third respondent registered a complaint and issued acknowledgement in C.S.R.No.671 of 2018. Though Specific averments have been made against the said Pushpam, the respondent Police instead of registering an F.I.R., issued CSR. When the third respondent Police issued summons to the said Pushpam, she evaded from attending for the enquiry by saying one or other reasons and later after getting legal advice, she had filed a false complaint against the petitioner as if she had been sexually harassed by the petitioner. Subsequently, only on 10.12.2018, the third respondent Police registered a case in Crime No.1644 of 2018 for the offence under Section 381 I.P.C. against the said Puspham. The said Pushpam had approached this Court seeking for anticipatory bail twice and her applications for anticipatory bail were dismissed by this Court twice. Though a ground was taken by the said Pushpam that a false complaint has been given against her as a counter blast to her complaint, this Court had dismissed the petitions. Further the complaint given by the said Pushpam was also enquired and it has been closed as "mistake of fact". The third respondent is reluctant to continue with the further investigation and thereby, the present petition is filed seeking for transfer of investigation.

3. The respondent has filed a status report, wherein, it has been stated that the said Pushpam was working as a house maid for the past 2 ½ years and she had left the job on 18.07.2017 without informing the petitioner. Only after a month, the petitioner has found 36 sovereigns of gold jewels were missing. Based on the complaint given by the petitioner, a case has been registered in Crime No.1644 of 2018, for the offence under Section 381 I.P.C. Thereafter, the third respondent took up the investigation, visited the scene of occurrence, prepared Observation Mahazar and Rough Sketch and also obtained the statement of witnesses. The respondent has summoned the alleged suspect viz., Pushpam. She appeared for enquiry before the respondent Police on 25.08.2018 and her statement was obtained. Further, it has been stated that the complaint had been filed only after 30 days of missing of jewels and there was also no other valid clue in the scene of occurrence and thereby, they have not taken action against the accused viz., Puspham and now, they are further continuing with



4. Heard the learned counsel on either side.

5. Taking into consideration the facts and circumstances of the case and also considering the status report filed by the third respondent, the alleged suspect viz., Pushpam had approached this Court by filing anticipatory bail applications and the ground taken by her was that she was sexually harassed by the petitioner and since it was resisted by her, a false complaint has been given against her. However, this Court had brushed aside the claim of the alleged suspect / Pushpam and dismissed both the anticipatory bail applications stating that the custodial interrogation of the alleged accused is necessary to recover the jewel articles and to know the truth. Despite the dismissal of the anticipatory bail applications, the third respondent has not taken any steps to arrest the accused to conduct custodial interrogation. This Court is of the opinion that the third respondent is wilfully reluctant to conduct the investigation in a proper manner. It is admitted in the status report that no other valid clue is available in the scene of occurrence. If that is so, the only person available in the house other than the family members of the petitioner is Pushpam, the alleged suspect. Though two anticipatory bail applications have been dismissed and this Court had found that custodial interrogation is necessary, the third respondent Police has not taken steps to secure the accused to conduct custodial interrogation.

6. This Court is of the opinion that the third respondent is wilfully not interested in conducting the investigation to bring out the truth and thereby, no useful purpose will be served by allowing the third respondent to continue with the investigation. In view of the above, the first respondent is directed to withdraw the case in Crime No.1644 of 2018, pending on the file of the third respondent and transfer and entrust it to the second respondent to conduct further investigation in accordance with law.

7. In the result, this Criminal Original Petition is allowed accordingly.

Sd/-

Assistant Registrar

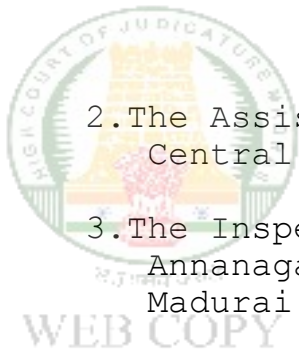
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Sub Assistant Registrar(CS)

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To

1.The Commissioner of Police,
Madurai City, Madurai.



2.The Assistant Commissioner of Police,
Central Crime Branch, Madurai City.

3.The Inspector of Police,
Annanagar Police Station,
Madurai City.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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KK/09.03.2020/4P-5C