

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.06.2021

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Crl.O.P.No.657 of 2016

Ganesan

... Petitioner /Defacto complainant

-Vs-

1. The State

Represented by the Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai 600 004.

2. The Superintendent of Police,
Thiruvannamalai District.

3. The State of Tamil Nadu Rep. By
Sub Inspector of Police,
District Crime Branch,
Thiruvannamalai District

.. Respondents /Respondents

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to direct the 1st respondent police to further direct to transfer the investigation to CBCID and expedite the investigation and arrest the real culprits in Crime No.17of 2015 pending on the file of the 3rd respondent police.

For Petitioner : Mr.R.Muniyapparaj

For Respondent : Mr.E.Raj Thilak

Counsel for Government
(Crl. Side) for R1 to R3

ORDER

This Criminal Original petition has been filed seeking to transfer the investigation pending on the file of the 1st respondent to CBCID and expedite the investigation.

2. The case of the prosecution is that the petitioner is the defacto complainant in this case and he was running a Kamatchi Amman Oil Mill Store at Thiruvannamalai and the accused persons 1 to 14 were running a company by name and style of "Krishna Oil Store. One Arumugam, who is the 1st accused in this case was known by the petitioner through his oil business. In the year 2009, the petitioner's kidney was transplanted and therefore, he was retired from his business.

While so, the petitioner intends to transfer his property to her daughters but the 1st daughter of the petitioner was not happy with her matrimonial life because her husband always demanding for dowry from her. Taking advantage of the situation, the accused persons went to the house of the petitioner with

<https://www.mhc.tn.gov.in/judis/> fraudulent intention and motivation to cheat and grab the

property of the petitioner. They were falsely promised to support him in financial crisis. Based on that, they forced the petitioner to pledge all his property as collateral security stood as a guarantor for getting loan in favour of Sri Krishna Oil store for consideration of Rs.5 crores and 50 lakhs. On the same day, all of them were induced by way of showing so many xerox copies of bogus document and induced that other documents were available in bank. On believing all the narrated stories are true, on 17.12.2013, petitioner had handover all original to A1 to A3, A6, A7, A12. On 20.07.2015, to the shock and surprise, the State Bank of India given a advertisement against all accused for taking action against them under SARFASI Act. While so, the petitioner presented the cheque given by the accused persons and the same was bounced with endorsement of "Account closed and Insufficient Fund". The petitioner realized that with fraudulent intention, all accused were cheated the petitioner and therefore, the petitioner had given a complaint to the 1st respondent and it was registered in Crime No.17/2015 under Section 420 of IPC.

3. The learned counsel for the petitioner submitted that the respondent police without even conducting the investigation in a proper manner, had kept the case pending for so many years and hence, prays for transfer of the investigation to CBCID.

4. The learned counsel for Government (Crl. Side) on instructions submitted that the respondent police after investigation had altered the offences to Section 420, 120(b) and 418 of IPC and filed a final report dated 14.08.2018 before the learned Judicial Magistrate I, Thiruvannamalai. The learned counsel further submitted that the Court below has already examined 14 witnesses out of 22 witnesses and the case is now posted on 24.06.2021 for framing of charges.

5. Taking into consideration the facts and circumstances of the case and also of the fact that the case is now being posted for framing of charges on 24.06.2021, this

Court in exercise of its jurisdiction under Section 482 of Cr.PC, is not inclined to transfer the proceedings at this stage. Therefore, the learned Judicial Magistrate No.1, Thiruvannamalai, is directed to complete the proceedings, within a period of two months from the date of receipt of copy of this order. This Criminal Original petition is disposed of with the above directions.

24.06.2021

rka

Index : Yes / No

Internet : Yes / No

To

1. The Judicial Magistrate No.1, Thiruvannamalai.
2. The Additional Public Prosecutor,
High Court of Madras, Chennai.

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V.BHAVANI SUBBAROYAN.,J
rka



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