



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.08.2021

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

CRL.O.P.NO.9639 OF 2016

P.Balasubramanian

... Petitioner

.Vs.

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

2. The Inspector of Police,
CBCID,
No.242, G-Mettu Street,
Tagore Illam, Perambalur.

3. The Inspector of Police,
Mangalamedu Police Station,
Mangalamedu,
Perambalur District.

... Respondents

PRAYER:- Criminal Original Petition is filed under Section 482 Cr.P.C., to transfer the investigation relating to Crime No.576 of 2015 from the third respondent to the second respondent/CBCID, Perambalur.

For Petitioner : Mr.B.Lenin Balu

For Respondents : Mr.E.Raj Thilak
(Counsel for Govt. of Tamilnadu)

O R D E R

This Criminal Original Petition has been filed seeking for to transfer the investigation relating to Crime No.576 of 2015 from the third respondent to the second respondent/CBCID, Perambalur.

2. The case of the petitioner is that the petitioner herein who is the complainant in the aforesaid Crime No.576 of 2015 pending on the file of the 3rd respondent Police. The



3rd respondent police registered the case against seven accused under Section 147, 365, 506(ii) of the Indian Penal Code. On 23.10.2015 at about 10.a.m. when the petitioner was returning from his daughter's school after dropping her daughter at the school by two wheeler, on Vallapuram Road near the Karuppaiah Temple, a Tata Sumo came in front of his two-wheeler. Suddenly, 5 persons have surrounded the petitioner and forcibly dumped into the Tata Sumo after having taken him. While they attacked the petitioner on running the vehicle, the petitioner was alarming. On hearing the cries for help of the petitioner, the Highway Patrol Police, chased the said Tata Sumo and stopped the Car. After the car was stopped, three offenders were caught by the Police and others escaped from the scene of occurrence. Thereafter, the Highway Patrol Police handed over the three accused to the 3rd respondent police along with the petitioner. On the same day, a written complaint was given by the petitioner to the 3rd respondent that the petitioner never saw the accused at anywhere before the commission of offence and however, he suspected one Velmurugan S/o. Murugesan since he was having prior enmity with him regarding a temple issue. On the complaint of the petitioner, the 3rd respondent police have arrested the 5th accused except one Sudhakar and Velmurugan who are the prime accused in this case for which the petitioner was informed that Cyber Crime Branch are tracing out the Cell phone of the accused to find out their location and who was involved in the real episode and who was engaged to kidnap and kill the petitioner herein. Under these circumstances, the petitioner asked a copy of the FIR, while one accused namely Venkatesan has moved a bail application before this Court, to file an intervening petition. On seeing the FIR, the entire episode was modified by the Police as if the accused had mistakenly kidnapped the petitioner and the accused voluntarily mentioned their names during the commission of offence, but in the original complaint, the petitioner never mentioned names of the accused except Velmurugan, S/o. Murugesan who is residing nearby the residence of the petitioner. Thus, the 3rd respondent has totally changed the complaint and filed the FIR to help the real offenders to escape from the eye of law. Under such circumstances, the Accused No.2 was granted bail by this Court as the 3rd respondent police has not filed a report on complaint made by the petitioner.

3. It has been further submitted that the 3rd respondent has not yet arrested A5 and other accused in the Crime and the suspected person in the village of the petitioner who are the real offenders for the commission of offence. The conduct of the 3rd respondent in the investigation of this case is not fair and not proceeding in accordance with law. Unless a serious and unbiased machinery like CBCID takes up the issue and conduct a fair and lawful investigation, justice will be denied to the



petitioner herein and the criminals will let loose to perpetrate their criminal and unlawful activities. Hence, the petitioner sent a complaint on 19.11.2015 to the Superintendent of Police, Perambalur, /1st respondent herein to re-investigate the matter or transfer the investigation to CBCID. The above said complaint was also sent to the 3rd respondent and the Deputy Superintendent of Police, Mangalamedu Police Station, but they refused to receive the same and returned the said complaint. It clearly shows that the defiance and insubordination on the part of the 3rd respondent and the Deputy Superintendent of Police, Mangalamedu Police Station. Therefore, he prays this Court to direct the 1st respondent to transfer the investigation relating to Crime No.576 of 2015 from the 3rd respondent to the 2nd respondent/CBCID, Perambalur.

4. The learned Government Advocate (Crl. Side) would submit after producing a copy of the Final Report bearing No.FR-232/2021-Original dated 30.07.2021 that the Final Report dated 30.07.2021 has been produced under Section 173 Cr.P.C. before the Judicial Magistrate, Perambalur, having charge sheeted on the accused No.1 Velmurugan, Accused No.2 Venkatesan, Accused No.3, Aruljothi, Accused No.4. Tamilarasan, Accused No.5, Sudhakar, Accused No.6. Vasu and Accused No.7 Ragunathan under Section 147, 365, 506(1), 342, 34, 341 of IPC. Hence, this Court may be pleased to direct the Judicial Magistrate concerned to dispose of the case after trial.

5. Heard, the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) as well as perused the material available on record.

6. Having considered the facts and circumstances of the case and submissions made by the learned Government Advocate (Crl. Side), the Judicial Magistrate concerned dealt with the aforesaid case is hereby directed to take on its file in Charge Sheet No.FR-232/2021 within a period of one week from the date of receipt of copy of this order and dispose of the same at the earliest after conducting trial without any further delay.

7. In view of the aforesaid directions, this Criminal Original Petition is disposed of. Consequently, connected miscellaneous petition is also closed if any.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar



lbm

To

1. The Judicial Magistrate,
Perambalur.
2. -do- throu Chief Judicial Magistrate,
Perambalur.
3. The Superintendent of Police,
Perambalur District,
Perambalur.
4. The Inspector of Police,
CBCID,
No.242, G-Mettu Street,
Tagore Illam, Perambalur.
5. The Inspector of Police,
Mangalamedu Police Station,
Mangalamedu, Perambalur District.
6. The Public Prosecutor,
High Court of Madras,
Chennai.

CRL.O.P.NO.9639 OF 2016

PL (CO)
PBS/22/09/2021