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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.22207 of 2021

1.Mrs.Sarasammal

2.Baby

... Petitioners

Versus

1. The State Represented by
Superintendent of Police,
Krishnagiri District.

2. The State Represented by
Inspector of Police,
Maharaja Kadai Police Station,
Maharaja Kadai Post, Krishnagiri District.

3. The Inspector of Police,
Central Bureau of Criminal
Investigation Department,
Krishnagiri, Krishnagiri District.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to transfer the investigation in Crime No.394/2018 on the file of the 2nd respondent to The Inspector of Police, Central Bureau of Criminal Investigation Department, Krishnagiri, Krishnagiri District or any other law enforcement agencies in Krishnagiri district for fair investigation.

For Petitioners : Mr.S.Arokia Mani Raj.

For Respondents : Mr.E.Raj Thilak,
Additional Public Prosecutor

ORDER

The petitioners seek permission of this Court for transfer of investigation in Crime No.394 of 2018 on the file of the



second respondent police since the second respondent had conducted the investigation in a perfunctorily manner, without taking appropriate steps..

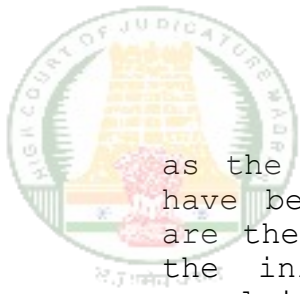
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2.The learned counsel for the petitioners submitted that right from the beginning, the second respondent has not conducted proper investigation. Therefore, the complaint has been lodged by the Sub Registrar No.1, Krishnagiri, a public servant. Thereafter, no action has been taken and hence, the petitioners had filed a petition before this Court in CrI.O.P.No.27529 of 2018. Subsequently, as per the the direction of this Court, the First Information Report in Crime No.394 of 2018 came to be registered. Again, since the second respondent conducted the investigation in the same manner, the petitioners filed CrI.O.P.No.9419 of 2019 seeking a direction to file a final report in Crime No.394 of 2018 and the order of this Court was not complied with. Hence, the petitioners have filed the contempt petition in Cont.P.No.402 of 2021 and then only, the final report was filed. The petitioners filed a copy application before the lower Court on 01.11.2021 and the same was returned, stating that no final report has been filed. Later they obtained the final report through Right to Information Act. The main accused in this case is one M.Madaiyan S/o Kangaperumal and A.Venugopal. The document writers, who created a fraudulent sale deed, were not made as accused in the final report, despite their names found in the First Information Report as accused Nos.6 and 10.

3.The learned Additional Public Prosecutor submitted that investigation in Crime No.394 of 2018 has already been completed and a charge sheet has been filed listing nine accused. The statement of witnesses, including the petitioners, have been recorded and LW1 to LW8 listed as witnesses. In view of the same, the present petition cannot be entertained.

4.Considering the submissions and on perusal of the materials, it appears that LW4, who is the victim, is diligently following the case. The complainant is a Sub Registrar No.1, Krishnagiri, a public servant. Despite the same, the investigation had been in its own pace. Therefore, after filing various petitions for registering the First Information Report and on filing contempt petition, investigation has been completed and charge sheet has also been filed in this case.

5.In the First Information Report 10 persons were named as accused, but in the charge sheet only 8 persons have been shown



as the accused. According to the petitioners, 2 persons names have been deleted and no reasons were given. The petitioners are the victims and they have been pursuing the case right from the initial stage. Though the petitioners are not defacto complainant technically, in all other aspects, they taken the role of the defacto complainant.

6. In view of the same, the respondent police as well as the lower court is directed to give notice to the petitioners. The petitioners are directed to file a protest petition before the concerned court and the lower court shall consider and pass appropriate orders on the same. The petitioners are at liberty to approach the lower court, on its own, along with this order copy and file a protest petition within a period of two weeks from the date of receipt of the order.

7. Recording the same, this Criminal Original Petition is disposed of.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

kmm/mdl

To

1. The Superintendent of Police,
State of Tamilnadu,
Krishnagiri District.
2. The Inspector of Police,
State of Tamilnadu,
Maharaja Kadai Police Station,
Maharaja Kadai Post,
Krishnagiri District.
3. The Inspector of Police,
Central Bureau of Criminal
Investigation Department,
Krishnagiri, Krishnagiri District.
4. The Public Prosecutor,
High Court, Madras.



Copy to:

1. The Judicial Magistrate, II
Krishnagiri.
2. Do-Through,
The Chief Judicial Magistrate,
Krishnagiri District.

+lcc to Mr.S.Arokia Maniraj, Advocate, S.R.No.62826

CRL.O.P.No.22207 of 2021

VBM(CO)
SU(02/12/2021)