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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.NO.24867 OF 2021

D.Dhivya Sharona

... Petitioner/
De-facto Complainant

Versus

1. The Superintendent of Police,
S.P.Office, Erode HO,
Near Panneer Selvam Park,
Erode 638 001.

2. State rep by
The Inspector of Police,
Rangampalayam Police Station,
Erode 638 002.
(Crime No.362/2021)

... Respondents 1 & 2

PRAYER:

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the 1st respondent to transfer the investigation of the case in Crime No.362 of 2021 pending on the file of the 2nd respondent to CB-CID or any other fair agency in the best interest of justice.

For Petitioner : Mr.L.Infant Dinesh

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

ORDER

This Criminal Original Petition has been filed to direct the 1st respondent to transfer the investigation of the case in Crime No.362 of 2021 pending on the file of the 2nd respondent to CB-CID or any other fair agency in the best interest of justice.



2. The grievance of the petitioner/defacto complainant in Crime No.362 of 2021 is that though First Information Report has been registered for the offences under Section 498(A), 406, 420, and 506(i) of IPC only on the directions of the Additional Mahila Court, Erode, thereafter no proper investigation has been conducted. In fact, Anticipatory Bail application for A1 has been rejected twice by this Court in Crl.O.P.Nos.15569 of 2021 and 17640 of 2021. Despite the same, accused A1 has not been arrested and no worthwhile investigation conducted. The petitioners apprehension is that the 2nd respondent has become complacent with the accused.

3. The learned Additional Public Prosecutor submitted that, in this case A1 is absconding and serious efforts have been made to secure the accused. As regard A2 Sampath, anticipatory bail had been granted. He further submits that the Bank statements have to be obtained and further, only after the arrest of A1, recovery of dowry and seedhana articles can be made. The respondent Police are taking all earnest steps in this regard.

4. Considering the submissions and on perusal of the materials available, the primary offence is purely a matrimonial dispute between the petitioner, who is the estranged wife of A1 and A1. During their marriage life, she had presented seedhana articles and thereafter submitted to the dowry demands. Now A1/her estranged husband has developed relationship with another lady not only betrayed the petitioner and he had also not bothered to take care of the petitioner and her son. In a matrimonial dispute, the case under Section 498 (A) of IPC and alleged offences are normally investigated by the All Women Police who would be receptive to the defacto complainant's pain and sufferings. Further the defacto complainant being a lady, it would be better that if All Women Police would investigate the case, she can disclose the facts without any hesitation.

5. In view of the same, this Court finds that there seems to be some stagnation in the stage of the investigation and also the facts of this case, this court is inclined to transfer this investigation in Crime No.362 of 2021 to the file of the All Women Police Station, Erode. The 2nd respondent Police to furnish all the particulars and hand over the "Case Diary" and thereafter the All Women Police, Erode to take all earnest steps to secure A1, whose Anticipatory Bail application has been rejected twice. The Criminal Procedure Code as well as the Criminal Rules of Practice contemplates that the persons whose Anticipatory Bail had been rejected he has to be secured without delay.



6. In view of the same, this Criminal Original petition is disposed of.

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Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

vkrr/mpl

To

1. The Superintendent of Police,
S.P.Office, Erode HO,
Near Panneer Selvam Park,
Erode 638 001.
2. The Inspector of Police,
Rangampalayam Police Station,
Erode 638 002.
3. The Inspector of Police,
All women Police Station,
Erode.
4. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.L.Infant Dinesh, Advocate, S.R.No.68032

CRL.O.P.No.24867 of 2021

SR II (CO)
PM/23/12/2021