



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2021

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THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

CRL.O.P.NO.12495 OF 2017

&

CRL.M.P.NO.8146 OF 2017

S.Kandasamy

... Petitioner

.Vs.

The Inspector of Police,
Elachipalayam Police Station,
Namakkal District.

... Respondent

PRAYER:-

Criminal Original Petition filed under Section 482 of Cr.P.C. seeking for transfer of the investigation of the case in Crime No.209 of 2011 from the file of the respondent to any other police for change of investigation which is now pending on the file of the Fast Track Court, Magistrate Level, Tiruchengode and renumbered as C.C.No.321/2017 and to file a final report in consonance with the complaint and report of the petitioner dated 13.06.2011.

For petitioner : Mr.G.M.Anantha Kumar

For respondent : Mr.E.Raj Thilak
Counsel for Government (Crl.)

ORDER

This petition has been filed seeking for transfer of the investigation of the case in Crime No.209 of 2011 from the file of the respondent to any other police for change of investigation which is now pending as C.C.No.321/2017 on the file of the Fast Track Court, Magistrate Level, Tiruchengode and to file a final report in consonance with the complaint and report of the petitioner dated 13.06.2011.

2. The brief contentions of the petitioner is as follows:



The petitioner is the de-facto complainant and he is the owner of the cultivation lands in Kilapalayam Village and carrying on agricultural works. A dispute was arose with regard to the passage between the petitioner and the owners of the neighbouring cultivation lands/accused persons, who claimed that there is a passage available through the petitioner's patta land, and they filed a suit in O.S.No.105 of 2002, which was ended in favour of them, against which an appeal in A.S.No.17 of 2011 was filed and the same is pending on the file of the Subordinate Judge, Namakkal.

2.1. While the appeal is pending, the accused persons came with deadly weapon with two tractors and attempted to form a road in the cultivation lands and hence, the petitioner made a complaint before the respondent police. According to him, while filing final report, the names of some accused persons viz. A12, A13, A15, A17 & A18 were removed, who had actively participated in the crime, using deadly weapon and there is no whisper about the involvement of the Tractor during the incident and also the Tractor was not recovered. The above act of the respondent made the petitioner to suspect the genuineness of the enquiry conducted by them while filing the final report. The petitioner has a prima facie case and if the above investigation of the case would not have transferred to some other police, the petitioner will be put to much loss and hardship. Hence this petition.

3. The learned Government Advocate (Crl. side), appearing for the respondent police submitted that only after enquiring the witnesses and thorough investigation, the final report has been filed and now the case taken up for file and pending as C.C.No.321/2017 on the file of the Fast Tract Court, Magistrate Level, Tiruchengode. Hence, at this stage, reinvestigation is not necessary and the petition is liable to be dismissed.

4. On going through the First Information Report, it shows that the petitioner has made complaint as against 22 persons. But in the final report, only 17 persons have been shown as A1 to A17. It is the contention of the petitioner that the respondent police has not considered the first information report and the involvement of the Tractors are also not considered and that only to help the accused persons, the respondent police have removed the names of A12, A13, A15, A17 and A18 (Devaraj, Rajavel, Ramasami, Gopal and Boobalan) and filed final report only against 17 persons. But, in the complaint, the petitioner has not made any specific allegations as against these accused persons with regard to their criminal involvement on the date of incident. Further, the statement of the witnesses also does not reveal any offence against these accused persons and they have not stated any specific overtact



against them. Therefore, in the absence of any valid materials, the investigation done by the investigating officer does not require any interference by this court.

5. Accordingly, this writ petition is dismissed. Consequently, connected criminal miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Fast Track Court,
Magistrate Level,
Tiruchengode.
2. The Subordinate Judge,
Namakkal.
3. The Public Prosecutor,
Madras High Court.
4. The Inspector of Police,
Elachipalayam Police Station,
Namakkal District.

CRL.O.P.NO.12495 OF 2017

PCH(CO)
PBS/01/09/2021