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W.P.No.1561 of 2017

N.SATHISH KUMAR, J.

This Writ Petition has been listed today under the caption 'for being mentioned' at the instance of the learned counsel for the petitioner.

2. The learned counsel for the petitioner submitted that in the Order dated 15.11.2021 made in W.P.No.1561 of 2017, in paragraph No.5, it is mentioned as 'accused' instead of 'petitioner' and the same needs to be corrected.

3. In view of the above submissions, in the Order made in W.P.No.1561 of 2017, dated 15.11.2021, in the third line of paragraph No.5, instead of the word 'accused' it shall be read as 'petitioner'. All other aspects remain unaltered.

4. The registry is directed to incorporate the above correction and issue fresh Order copy to the parties concerned.



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2021

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CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

**W.P.No.1561 of 2017
and
W.M.P.No.1487 of 2017**

P.Selvakumar

... Petitioner

Vs.

1. The Superintendent of Police
O/o the Superintendent of Police
Thiruppur District
Thiruppur.

2. State Rep. By its
Inspector of Police
Kundadam Police Station
Kundadam
Thiruppur District
(Crime No.193 of 2013)

3. J.P.Viswanathan

4. Shanmugasundaram

5. Somasundaram

6. Kanagaraj

7. Jeyaprakash

8. Shanmugavenkateshkumar

9. S.Sivakumar

10. Veeran

11. Senthikumar

12. Manikandam

13. Sadasivam

14. Radhakrishnan @ Umaian

..Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to direct the first respondent to transfer investigating officer in Crime No.195 of 2013 on the file of the 2nd respondent herein to some other investigating officer and direct the new investigating officer to record necessary further statements and to file an additional



charge sheet before the learned III Additional District and Sessions Judge, Thiruppur in S.C.No.169 of 2014 based on the petitioners representation dated 29.12.2016.

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For petitioner : Mr.S.Kumaradevan
For respondents : Mr.S.Vinoth Kumar for R1 & R2
Government Side (Criminal Side)
No appearance for R3 to R14

ORDER

This writ petition has been filed to direct the first respondent to transfer the investigating officer in Crime No.195 of 2013, pending on the file of the 2nd respondent to some other investigating officer and direct the new investigating officer to record necessary further statements and to file an additional charge sheet before the learned III Additional District and Sessions Judge, Thiruppur in S.C.No.169 of 2014 based on the petitioner's representation dated 29.12.2016.

2. The petitioner, who is the defacto complainant had moved CrI.M.P.No.9 of 2015 in S.C.No.169 of 2014 on the file of the learned III Additional District and Sessions Judge Dharapuram, seeking a direction for further investigation. The Court below has dismissed the petition and the same was also confirmed by this Court in CrI.R.C.No.1117 of 2015 dated 10/12/2015. Being aggrieved, the petitioner had filed S.L.P.No. 2387 of 2016 and the same was also dismissed. Now, the instant writ



3. Heard Mr.S.Kumaradevan, learned counsel appearing for the petitioner and Mr.S.Vinoth Kumar, learned Government Advocate (Criminal Side) for the respondents 1 and 2. There is no representation on behalf of the respondents 3 to 14.

4. The main grievance of the petitioner is that eventhough L.W.5 in her evidence had deposed about the seizure of two vehicles, the same has not been seized by the prosecution. It is to be noted that L.W.5 is none other than the close relative of L.W.1 and a perusal of the entire cross examination clearly indicate that she was not at all an eyewitness, but she has given a statement before the Police that she came to know about the incident through her Uncle. P.Ws.1 to 4 have not whispered anything in their deposition. Therefore, hearsay or overheard information cannot be treated as evidence as they lack authenticity. Therefore, merely because witness statements not supporting defacto complainant case, same cannot be agreed to attribute motive to Investigation Agency and seek for transfer of Investigation. This writ petition has been filed to overcome the earlier orders of this Court refusing for the investigation

5. Accordingly, this writ petition is dismissed, with cost of Rs.5,000/- (Rupees Five thousand only) payable to the Legal Aid Centre, Dharapuram. Trial Court is directed to ensure the cost amount to be paid by the accused before completion of trial. Trial Court is directed to complete the trial within a period of three months



from the date of receipt of a copy of

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this order. No costs. Consequently, connected Miscellaneous Petition is closed.

15.11.2021

mvs.

To

1. The Superintendent of Police
O/o the Superintendent of Police
Thiruppur District
Thiruppur.
2. The Inspector of Police
Kundadam Police Station
Kundadam
3. III Additional District and Sessions Judge, Thiruppur
4. III Additional District and Sessions Judge Dharapuram,

N. SATHISH KUMAR,J

mvs.



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W.P.No.1561 of 2017

15.11.2021