



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.04.2021

CORAM :

THE HONOURABLE MR.JUSTICE G.ILANGO VAN

Cr1.OP(MD).No.5144 of 2021

Syed Salavudeen

: Petitioner

Vs.

1. The Commissioner of Police,
Trichy City,
Trichy.

2. The Superintendent of Police,
Central Zone,
Crime Branch CID,
Trichy District,
Trichy.

3. The Inspector of Police,
Crime Branch CID,
Trichy Town,
Trichy.

4. Abdul Kadhar

: Respondents

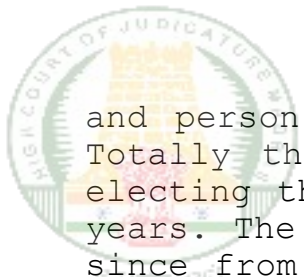
PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to direct the second and third respondents to withdraw the complainant of the petitioner and transfer the same to any other competent investigation officer or agency based on the petitioner's representation dated 29.03.2021.

For Petitioner : Mr.T.Vadivelan
For Respondents : Mr.K.Suyambulinga Bharathi,
Government Advocate.
For R1 to R3.

ORDER

This Criminal Original Petition is filed seeking a direction to the second and third respondents to withdraw the complaint of the petitioner and transfer the same to any other competent Investigation Officer or agency based on the petitioner's representation, dated 29.03.2021.

2. The case of the petitioner is that he was appointed as Muthavalli of Trust from 21.07.2018 to till now. The period of tenure of Muthavalli is three years in the Trust. Thereafter, the Trust elected a new Muthavalli by the members of the Trust. The petitioner and two other Muthavallis are maintaining the Trust administration, management, appointment of Muthavalli, funds utilization and development of Trust and the Trust was adopted by Tamil Nadu Wakf Act. Normally, the said Trust elected a Muthavalli by man successors, female successor and the general person of Trust



and person belongs to Muslim religion and connected to the Trust. Totally the Trust consists of three members of management, after electing the persons he will hold the post for the period of three years. The fourth respondent herein, who is the Muthavalli of Trust since from 2008 to 2019, who is the female successor of the Trust, after completion of her tenure, has created bogus documents along with Abdul Kadhar by his money and muscle power and he himself declared as he was appointed as Muthavalli for the next service period of 2012 to 2015. On 2014, one Abdul Kadhar who was one of the member, resigned his post due to the illegal act of the fourth respondent herein. Since 2015, the fourth respondents tenure completed. In the mean time, he approached the Wakf Board, the board denied his prayer and he has filed a Writ Petition before this Court, in which, he sought for appointing him as Muthavalli, but the Court dismissed the same. In meanwhile, suppressing all the facts and again he was appointed as a Muthavalli of the Trust for the next service period of 2015 to 2018. Thereafter, the Trust removed the fourth respondent from the Muthavalli post, after the member of the Trust appointed as a Muthavalli by the petitioner. The said Trust is having immovable assets and maintained by the Muthavalli of the Trust. The Trust consists of 52 rental shops and 85 houses. The fourth respondent herein hold the post from 2008 to 2019 onwards, who received sum of Rs.79,56,000/- through Trust rental amount and other income for a sum of Rs.25,00,000/- and he has given permission for construction of a building in the Trust property and getting money for the same for a sum of Rs.60,00,000/-. Thereafter, he has created lot of bogus document, receipts trust seal and signature etc., from his tenure period. Even though, he did not pay taxes to the Government and did not submit account duties before the board, as per the Wakf Act 1995 Section 101(2) says that the Muthavalli is the authorised person for the Trust management and administration. The fourth respondent herein, who has acted with an intention to occupy the property and belongings of trust and threatened some others and looted the money from the Trust and developed his own family wealth. Thereafter the petitioner and other members of the Trust approaching to the fourth respondent, asking the Trust accounts details and other financial transactions, but the fourth respondent herein who has denied the same and threatened the Trust members and the petitioners by his money and the muscle power. As such, the petitioner has approached the second and third respondents and gave a complaint on 07.10.2020, in which, he has sought for taking appropriate steps against the fourth respondent and his men but the second respondent herein who has transferred the same, dated 22.10.2020 to the first respondent. But the respondents till today did not take any further step on the complaint of the petitioner. Even after that there is no progress in the case and no one is enquired till now. The third respondent police did not conduct proper investigation on the complaint of the petitioner. The accused persons are roaming freely and continuously threatening the petitioner and other members of Trust to withdraw the case. So the

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prejudice and mental agony to the petitioner. Due to the above biased act of the respondents, on 29.03.2021, the petitioner sent a detailed representation to the respondent and their higher officials to take necessary action. In which he sought for withdrawal of the complaint of the petitioner from the third respondent and transfer the same to the competent impartial honest investigation officer for better investigation of the petitioner's case, but even after the receipt of the same, the first respondent did not take any action. So the act of the respondents is illegal, arbitrary and unreasonable. Hence, he filed this petition.

3. The learned Public Prosecutor would submit that the transfer of enquiry in the complaint stage is not possible and no question of transfer arise. If at all, direction can be issued to the CCB, Trichy, to complete the enquiry.

4. Further the learned Public Prosecutor would submit that already the complaint given by the Petitioner was transferred to CCB, Trichy and so, the matter also became infructuous.

5. Recording the statement made by the learned Public Prosecutor, this Criminal Original Petition stands disposed of, as further direction is not required.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

1. The Commissioner of Police,
Trichy City, Trichy.

2. The Superintendent of Police,
Central Zone,
Crime Branch CID,
Trichy District, Trichy.

3. The Inspector of Police,
Crime Branch CID,
Trichy Town,
Trichy.

4. The Additional Public prosecutor,
Madurai Bench of Madras High Court, Madurai

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VR(CO)

KB(17.08.2021) 3P 5C

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