



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 22.04.2021

CORAM

THE HONOURABLE MR.JUSTICE **SATHI KUMAR SUKUMARA KURUP**

W.P. (MD)No.7804 of 2021
and
W.M.P. (MD)No.5943 of 2021

P.Ganesan : Petitioner

Vs.

- 1.The Director General of Police,
Kamarajar Salai, Mylapore.
Chennai - 600 004.
- 2.The Superintendent of Police,
Tirunelveli District, Tirunelveli.
- 3.The Inspector of Police,
Valliyoor Police Station,
Tirunelveli District.
- 4.The Inspector of Police,
C.B.C.I.D.,Tirunelveli.
- 5.The Superintendent of Police,
Central Bureau of Investigation,
No.26, Haddows Road, Chennai -6.

6.Ravi : Respondents

PRAYER:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus, to direct the investigation in Cr.No.3 of 2018 from the file of the fourth respondent to be done by the fifth respondent and further to direct the fifth respondent to file final report within a stipulated time.

For Petitioner :Mr.T.Lenin Kumar

For R1 to R4 :Mr.A.P.G.Ohm Chairma Prabhu
Government Advocate (Cr1.Side)



ORDER

When the matter taken up for hearing on 20.04.2021, the learned Counsel for the petitioner submitted that this Court may pass appropriate orders transferring the investigation to CBI.

2.The learned Government Advocate submitted that the writ petitioner had already filed W.P.(MD)No.19919 of 2017 seeking to conduct an enquiry against the respondents 6 to 8 and 10 to 14 in that Writ Petition for their act of foisting false case against the petitioner. The learned Single Judge of this Court, based on the submissions of the learned Government Advocate that the investigation has almost completed, had directed the Inspector of CBCID, Tirunelveli, to file final report before the Court competent jurisdiction within a period of four weeks from the date of receipt of a copy of that order.

3.The present Writ Petition has been filed seeking to transfer the investigation from CBCID to CBI. When the matter was taken up for hearing on 20.02.2021, the learned Government Advocate submitted that charge sheet was filed before the Court of competent jurisdiction and it was taken on file. Hence, this Court called for remarks from the learned Judicial Magistrate No.1, Tirunelveli, as to whether the learned Magistrate had taken cognizance of the charge sheet filed in this case or not.

4.Today, when the matter is taken up for hearing, remarks were received from the learned Judicial Magistrate No.1, Tirunelveli, stating that the final report in Cr.No.3 of 2018 on the file of the CBCID Police, Tirunelveli, was filed and cognizance taken under Sections 341, 294(b), 392 506(ii) IPC on 17.04.2021 in C.C.No.202 of 2021.

5.Still the learned Counsel for the petitioner seeks indulgence of this Court to change the investigation from the CBCID to CBI. The learned Counsel for the petitioner cites the Ruling of the Honourable Supreme Court, reported in **2010 2 MLJ (Cr1) 735 (Rubabbuddin Sheikh vs State of Gujarat and others)**, wherein, the Honourable Supreme Court rejected the claim of the Gujarat Police to conduct fair investigation in view of the involvement of the police officials of the State and the CBI was directed to take up the investigation.

6.The learned Government Advocate submitted that the facts in the reported Rulings are different. There, in the State of Gujarat, it was a case of encounter and it was a false claim of encounter. In that case, the involvement of the top police officials was found. Therefore, the Honourable Supreme Court had transferred the case from the file of the State of Gujarat to the CBI. Here, it was not



the case. The top police officials are not involved and already charge sheet was filed and it was taken cognizance.

7. On perusal of the Ruling of the Honourable Supreme Court reported in **2010 2 MLJ (Cr1) 735 (Rubabbuddin Sheikh vs State of Gujarat and others)**, the facts are different as per the submission of the learned Government Advocate. In that case, in view of the involvement of top police officials, the Honourable Supreme Court felt that investigation will not be conducted fairly by the Gujarat Police hence it was ordered to transfer the investigation to CBI. Here, the petitioner himself had sought CBCID investigation and the investigation had proceeded as per the direction of this Court in the earlier occasion.

8. It is not the case of the petitioner that the investigation had not been completed. Now, the learned Government Advocate submitted that the investigation has been completed and final report had been taken on file and in that view of the matter, the Court had sought remarks from the learned Judicial Magistrate No.1, Tirunelveli, and remarks were also received stating that the final report had been filed and it was taken cognizance in C.C.No.202 of 2021. Therefore, insisting for CBI enquiry by the learned Counsel for the petitioner is rejected and the Writ Petition is closed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

cmr

To

1. The Director General of Police,
Kamarajar Salai, Mylapore.
Chennai - 600 004.

2. The Superintendent of Police,
Tirunelveli District, Tirunelveli.

3. The Inspector of Police,
Valliyoor Police Station,
Tirunelveli District.

<https://hcservices.ecourts.gov.in/hcservices/>



4.The Inspector of Police,
C.B.C.I.D.,Tirunelveli.

5.The Superintendent of Police,
Central Bureau of Investigation,
No.26, Haddows Road, Chennai -6.

+1CC to M/s.T.LENIN KUMAR, Advocate(SR-17262[F] dated 23/04/2021)

W.P. (MD)No.7804 of 2021
22.04.2021

RRS (10.05.2021) 4P 7C