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Crl.O.P.(MD) Nos.8505 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 31.10.2022

PRONOUNCED ON : 11.08.2023

CORAM

THE HON'BLE MR.JUSTICE **SATHI KUMAR SUKUMARA KURUP**

CRL.O.P(MD)Nos.8505 of 2022

and

Crl.M.P.(MD) No.5769 of 2022

Umamaheswari

... Petitioner

-vs-

1. The Inspector General of Police,
CBCID, Chennai.

2.The Superintendent of Police,
Office of the Superintendent of Police,
Theni District.

3.The Inspector of Police,
District Crime Branch, Theni,
Theni District.

4.The Inspector of Police,
Andipatti Police Station,
Theni District.
(Crime No.586 of 2021)

5.The Inspector of Police,
Crime Branch Criminal Investigation Department (CBCID),
No.36/1, Samadharmapuram,
Theni, Theni District.

... Respondents

(Respondent No.1 is *suo motu* impleaded vide order of this Court, dated 11.08.2023 and the original Respondents are re-arranged accordingly)



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PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to transfer the investigation to the 4th Respondent office (now ranked as 5th Respondent) for conducting fair and impartial investigation and to file final report within the time stipulated by this Court in Crime No. 586 of 2021 on the file of the third Respondent (now ranked as 4th Respondent).

For Petitioner	: Mr.Henri Tiphane for Mr.R.Karunanidhi
For Respondents	: Mr.R.Meenakshisundaram Additional Public Prosecutor

ORDER

This Criminal Original Petition had been filed to transfer the investigation to the 4th Respondent office (now ranked as 5th Respondent) for conducting fair and impartial investigation and to file final report within the time stipulated by this Court in Crime No.586 of 2021 on the file of the third Respondent (now ranked as 4th Respondent).

2.The learned Counsel for the Petitioner submits that the Petitioner is the Complainant in Crime No.586 of 2021 on the file of the fourth Respondent Inspector of Police, Andipatti Police Station, Theni. It is the case of the Petitioner that the Petitioner's parents are retired School



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Teachers. The Petitioner was running a grocery shop in the front portion of her house. One Sundarapandi who used to supply grocery items to the Petitioner introduced one Vairam @ Raja and informed her that he can purchase a land and obtain patta for that. Accordingly, she had paid Rs. 3,20,000/-. Based on which she was granted patta for the property in Survey No.2319/2 to an extent of 1 acre 92 cents in Andipatti Pit-I for which she had paid Rs.20,00,000/-. She was issued with patta No.5352. When she verified it, she found out that it was in the name of the Housing Board. Further, on her enquiry, she came to know that some Revenue Officials including Accused 12 Abdul Nazir are involved in similar acts of creating bogus documents and cheating the public. Therefore, she had preferred a complaint with the fourth Respondent. After registration of FIR, the fourth Respondent had not proceeded with the investigation. The persons against whom she had given complaint had been coercing and threatening her to withdraw the complaint. Also, the very same Accused had obtained anticipatory bail from the District and Sessions Court, based on the false representation given by the Sub Inspector of Police that there was no previous case. It is the contention of the learned Counsel for the Petitioner that the main Accused Vairam @ Raja is involving in similar



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offences along with some Revenue Officials and they are in the habit of cheating the public who wants to purchase properties. The said Vairam @ Raja and his accomplices, who are working in the Revenue Department and other such Departments of Government, are colluding together and creating fictitious documents thereby cheating the public. Therefore, the Petitioner seeks to transfer the investigation from the file of the fourth Respondent either to District Crime Branch or to the CBCID for effective investigation. It is the further submission of the learned Counsel for the Petitioner that the Accused have been involving in similar offences. The learned Counsel for the Petitioner had stated that many cases are pending against the said Vairam @ Raja in FIR No.184 of 2010, FIR No.20 of 2017 on the file of the District Crime Branch, Theni. FIR in Crime No.57 of 2018 on the file of Chinnamanur Police Station, Theni District. FIR in Crime No.166 of 2019 of Andipatti Police Station. FIR in Crime No.586 of 2021 on the file of Andipatti Police Station. Since the fourth Respondent herein had not stated about the pendency of the previous cases against Vairam @ Raja and his accomplices, that enabled the learned Principal District Judge to grant anticipatory bail. Also, it is the grievance of the Complainant/Petitioner herein that the fourth Respondent is not initiating the investigation with due



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diligence. Therefore, he prays to transfer the investigation in Crime No.586 of 2021 on the file of the fourth Respondent to the fifth Respondent for conducting fair and impartial investigation and to file final report within the time stipulated by this Court.

3.The learned Counsel for the Petitioner relied on the ruling of the Hon'ble Supreme Court reported in **2021 (2) MWN (Cr.) 90 (SC)** in the case of **Neeharika Infrastructure Pvt. Ltd. -vs- State of Maharashtra and others** wherein it is held as follows:

“Code of Criminal Procedure, 1973 (2 of 1974), Section 482 – Constitution of India, Article 226 – Quashing of FIR – Scope of interference with the investigation – Parameters for exercise of Inherent power by High Court – Principles governing – Investigation into cognizable offences, a statutory right and duty of Police under Code – Same cannot be thwarted by Courts – However, where no cognizable offence disclosed in FIR, Court can thwart investigation – Power of quashing to be exercised sparingly with circumspection in “rarest of rare case” - While examining FIR/Complaint sought to be quashed, Court cannot embark upon enquiry as to reliability or genuineness of allegations made in FIR/Complaint – Criminal proceedings not to be scuttled at initial stage – Courts barred from usurping jurisdiction of Police – Functions of judiciary and Police complementary, not overlapping – Except in cases, where non-interference would result in miscarriage of justice, Court should not interfere at investigation stage – Merits of allegations in FIR not to be gone into – Conclusions based on hazy facts premature – Conferment of wide power under Section 482 requires Court to be cautious and casts more diligent duty on Court -However, having regard to parameters laid down in R.P.Kapur and Bhajan Lal and if it thinks fit, Court has jurisdiction to quash FIR – While quashing FIR in exercise of power under Section 482, Court has to consider whether allegations in FIR disclosed commission of cognizable offence and not



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whether allegations make out cognizable offence – Court should permit IA/Police to investigate allegations in FIR.”

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4.The learned Additional Public Prosecutor appearing for the Respondents vehemently objected to the submission of the learned Counsel for the Petitioner seeking transfer of investigation stating that Andipatti Police Station had conducted proper investigation and the investigation is on proper lines. Also, it is supervised by the superior officers and if they found any lapses, the Superintendent of Police of the District concerned will withdraw the investigation from Andipatti Police Station. As on date the investigation is properly proceeding. This Petition lacks merits and is to be dismissed.

5. Point for consideration:

Whether the investigation pending with the fourth Respondent office (now ranked as 5th Respondent) in Crime No.586 of 2021 is to be withdrawn and transfer to a special unit?

6.Considering the modus operandi of the Accused, who cheated the gullible public to part with the hard earned money and creating bogus documents with the help of the Revenue Officials and also considering the fact that there are previous cases pending against the very same Accused,



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the Inspector General of Police, CB-CID, Chennai, is directed to nominate a Senior Police Officer in the rank of Additional Superintendent of Police or Deputy Superintendent of Police who is experienced in conducting fair and impartial enquiry in the assessment of the Inspector General of Police, CB-CID, Chennai, nominate him/her to investigate the cases of this nature where the officials of the State are hand in glove with the said Vairam @ Raja or similar such persons. Also, the Inspector General of Police, CB-CID, Chennai, shall conduct enquiry regarding the lapses on the part of the then Inspector of Police, Andipatti Police Station, Theni District who had suppressed the fact that the previous cases are pending against the Vairam @ Raja to enable him to be granted anticipatory bail by the Sessions Court, Theni. Also after grant of anticipatory bail, the said Vairam @ Raja and his accomplices are alleged to have coerced and threatened the De-facto Complainant/Uma Maheshwari and her parents which had resulted in her seeking change of investigation by a different authority. Therefore, the Inspector General of Police, CB-CID, Chennai, shall himself/herself supervise the investigation. The nominated officer shall conduct the investigation in FIR in Crime No.586 of 2021 and other such connected cases pending in various police stations regarding the same. The



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Superintendent of Police, Theni District is directed to hand over the investigation of Crime No.586 of 2021 from the file of the Inspector of Police, Andipatti Police Station to the Investigation Officer nominated by the Inspector General of Police, CB-CID, Chennai.

7.The Inspector General of Police, CB-CID, Chennai, is *suo motu* impleaded in this case as proper and necessary party.

8.The **point for consideration** is answered in favour of the Petitioner and the investigation pending with the fourth Respondent office (now ranked as 5th Respondent) in Crime No.586 of 2021 is to be withdrawn and transferred to the file of the Investigation Officer to be nominated by the Inspector General of Police, CB-CID, Chennai.

9.In the result, **this Criminal Original Petition is allowed**. The case in Crime No.586 of 2021 from the file of the Inspector of Police, Andipatti Police Station, Theni District is ordered to be withdrawn from the file of the Inspector of Police, Andipatti Police Station, Theni District and transferred to the file of the Investigation Officer to be nominated by the Inspector



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General of Police, CB-CID, Chennai. Consequently, connected miscellaneous petition is closed.

10.The Inspector General of Police, CB-CID, Chennai, shall himself/herself supervise the investigation. The nominated officer shall conduct the investigation in FIR in Crime No.856 of 2021 and other such connected cases of this nature pending in various Police stations across the State. The Superintendent of Police, Theni District is directed to hand over the investigation of Crime No.586 of 2021 from the file of the Inspector of Police, Andipatti Police Station, to the Investigation Officer nominated by the Inspector General of Police, CB-CID, Chennai.

11.The Inspector General of Police, CB-CID, Chennai, shall conduct enquiry regarding the conduct of the Inspector of Police, District Crime Branch, Theni who had suppressed the fact of previous cases pending against the Accused thereby helping the Accused to be granted anticipatory bail and also remaining indifferent when the officials are coercing and threatening the De-facto Complainant to withdraw the case. The Petitioner is to be granted protection from this sort of anti-social elements. If there are



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lapses on the part of the Police Officials who are remaining indifferent from enquiring/investigating a serious crime committed against the Government properties by greedy land sharks, the Inspector General of Police, CB-CID, Chennai, shall recommend appropriate departmental action on those Police Officials who are found to be encouraging the criminal activities.

11.08.2023

Index: Yes/No
Internet: Yes/No
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To

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1. The Director General of Police,
Chennai. (For follow up action)
2. The Inspector General of Police,
CB-CID, Chennai.
3. The Superintendent of Police,
Office of the Superintendent of Police,
Theni District.
4. The Inspector of Police,
District Crime Branch, Theni,
Theni District.
5. The Inspector of Police,
Andipatti Police Station,
Theni District.
(Crime No.586 of 2021)
6. The Inspector of Police,
Crime Branch Criminal Investigation Department (CBCID),
No.36/1, Samadharmapuram,
Theni, Theni District.
7. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SATHI KUMAR SUKUMARA KURUP, J.

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Order made in
CRL.O.P(MD)No.8505 of 2021

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