



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVATION DATE : 22.07.2021

PRONOUNCING DATE :11.08.2021

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CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.8843 of 2021

A.Thirumalai

... Petitioner

Vs.

1.The Superintendent of Police,  
Madurai District  
Surveyor Colony,  
Madurai.

2.The State rep by its  
Inspector of Police,  
Melavalavu Police Station,  
Melur Taluk, Madurai District.  
( Crime No.114 of 2021)

3.The Sub-Inspector of Police,  
Melavalavu Police Station,  
Melur Taluk,  
Madurai District.  
(Crime No.114 of 2021)

4.Jeyampandian,  
Sub-Inspector of Police,  
Melavalavu Police Station,  
Melur Taluk,  
Madurai District.

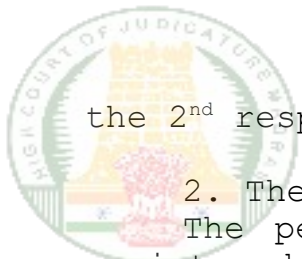
... Respondents

**Prayer:** Criminal Original Petition is filed under Section 482 Cr.P.C., to transfer the investigation of the case in Crime No.114 of 2021 on the file of the 2<sup>nd</sup> respondent police to any other investigating agency or officer and to expedite its investigation under the direct supervision of the 1<sup>st</sup> respondent.

For Petitioner : Mr.N.Dilip Kumar  
For R1 to R3 : Mr.R.M.Anbu Nithi,  
Additional Public Prosecutor.

**ORDER**

This Criminal Original Petition is filed seeking a direction to transfer the investigation in Crime No.114 of 2021 from the file of



the 2<sup>nd</sup> respondent police to any other police officials or agency.

2. The case in Brief:-

The petitioner is the victim in Crime No.114 of 2021. It is registered on the basis of the complaint, given by him, on 16.06.2021. In the complaint, it has been alleged by him that he is a coolie worker and actively involved in social works as well as fight against the water body encroachment etc., On 16.06.2021, at about 03.00 p.m., when he was grazing his goats, near Indian Oil Corporation Pipeline, at the instigation of one Prakash, Machakalai, Parvathi, Karupaiah, Pasumon Muthuraman, Ayyanar, Tirunavukarasu, Sivakami, Kusalavan, Dilagavathi, Latchumanan, Anitha, Suresh, 3 unidentified persons assaulted him with deadly weapons on either side of his thigh region and also stabbed and pushed him down. The injured was brought to the Government Hospital, Melur, immediately and later, he was shifted to Meenakshi Mission Hospital, Madurai. The statement of the petitioner has been recorded by the Police, when he was admitted in the Meenakshi Mission Hospital, Madurai. Based upon his statement, a case in Crime No.114 of 2021, was registered for the offences punishable under Sections 147, 109, 324 & 506 (ii) IPC on the same date of occurrence.

3. Investigation has also been undertaken. Pending investigation, this petition came to be filed by the petitioner, on the ground that even though, murderous attack has been committed upon him, the First Information Report has not been registered under Section 307 IPC. Sofar, no wound certificate has been collected and medical records has not been recovered. So, there is a clear bias, on the part of the Investigating Officer and they intended to screen the real accused persons. Fair investigation is also a part of fair trial. Sofar, no arrest and recovery has been made. Hence, this petition.

4. Heard both sides.

5. Status Report has also been filed by the Investigating Officer. The learned counsel for the petitioner would submit that the petitioner was actively involved in fight against the water body encroachment and because of the enmity, this murderous attack has been committed by the unidentified three persons, at the instigation of persons, whose names mentioned in the First Information Report. So, according to him, in respect of that, no investigation has been undertaken and no arrest has been made sofar and even anticipatory bail application, filed by the one of the accused, came to be dismissed, by this Court, in Crl.OP(MD)No.8323 of 2021, dated 09.07.2021.

6. The learned Additional Public Prosecutor would submit that there are 13 accused persons in this matter and investigation has been properly undertaken. A serious allegation has been made by the



direction, in order to screen the real offenders. Since the Investigating Officer has not collected material objects, has not arrested the accused persons also.

7. From the perusal of CD file, this Court came to know that not only the investigation was not undertaken in the proper direction, but, possibility of screening the real offenders can not be ruled out. So, any further discussion, on this point, it leads to impair the further investigation. So, this Court is not discussing about the facts that has been set out in the CD file. This Court has not satisfied the manner in which, the investigation has undertaken so far. The photographs produced by the petitioners shows that he sustained deep and grievous injuries. He has been immediately taken to the hospital and entries was made in the private hospital, Madurai as well as Government Hospital, Melur shows that the injuries are not self inflicted injuries. The injuries were caused by the some persons. The occurrence said to have took place at 03.00 p.m and he has been admitted in the hospital at 03.30 p.m. Within half an hour, he has been taken into the hospital. At that time, he has given a statement that he was assaulted with knife. The injuries are stated to be simple as per the wound certificate issued by the Meenakshi Mission Hospital, Madurai. But all the injuries are lacerated injuries measuring more than 5 cm x 5 cm. Injuries have been found on the right and left thigh regions as well as the spinal cord region also.

8. In what circumstance, transfer of investigation can be effected has been decided in a number of judgments, more particularly, in the case of **Kashmeri Devi Vs Delhi Administration & Another 1988 AIR 1323**, the Hon'ble Supreme Court has pointed out that transfer of investigation, can be ordered, if any attempt is made by the Investigating Agency to shield the real offenders and the police acted in a partition manner. So, what has been set out by the Hon'ble Supreme Court is squarely applicable in the facts and circumstances of this case. Perusal of entire CD file shows the attitude of the Investigating Officer.

9. I am of the considered view that this is a fit case to transfer the investigation from the file of the second respondent herein to some other Police Officer.

10. So, the investigation is transferred to the Deputy Superintendent of Police, Melur. The second respondent herein, is directed to immediately handed over all the records and case files to the Deputy Superintendent of Police, Melur, who shall undertake the investigation from initial stage, without being influenced by the investigation so far undertaken. The investigation shall be undertaken by the Deputy Superintendent of Police, Melur, under the direct supervision of the first respondent herein and the final report must be filed within a period of five months from the date of receipt of a copy of this order. So, after filing final report,



compliance report must be informed to the Registry. To that extent, this petition is allowed.

Sd/-

Assistant Registrar (CS-I)

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Sub Assistant Registrar(CS)

dss

**Note:** In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Superintendent of Police,  
Madurai District,  
Surveyor Colony, Madurai.
2. Deputy Superintendent of Police, Melur
- 3.The Inspector of Police,  
Melavalavu Police Station,  
Melur Taluk, Madurai District.
- 4.The Sub-Inspector of Police,  
Melavalavu Police Station,  
Melur Taluk, Madurai District.
- 5.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court, Madurai.

Copy to

The Section Officer, Criminal Section,  
Madurai Bench of Madras High Court, Madurai

+1 CC to M/s.N.DILIPKUMAR, Advocate ( SR-26200[F] dated 12/08/2021 )

Crl.O.P. (MD)No.8843 of 2021  
11.08.2021

SRK(CO)  
KB(24.08.2021) 4P 8C