



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27/10/2021

CORAM:

THE HONOURABLE MR JUSTICE G.ILANGO VAN

Crl. O.P. (MD) No.12845 of 2021

P.Soundarrajan

... Petitioner/Defacto Complainant

Vs.

1.The Superintendent of Police,
Trichy District.

2.The Deputy Superintendent of Police,
District Crime Branch,
Trichy District.

3.The Inspector of Police,
Vathalai Police Station,
Trichy.

... Respondent Nos.1 to 3

4.The Sub-Inspector of Police,
Vathalai Police Station,
(Crime No.47 of 2020)

... Respondent No.4/Investigation Officer

Prayer: The Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to directing the first respondent to withdraw the investigation in Crime No.47 of 2020 pending before the third respondent police station and transfer the same to the second respondent, complete the investigation and file final report within a period as may be fixed by this Court.

For Petitioner : Mr.C.Dhanaseelan

For Respondents : Mr.R.M.Anbunithi,

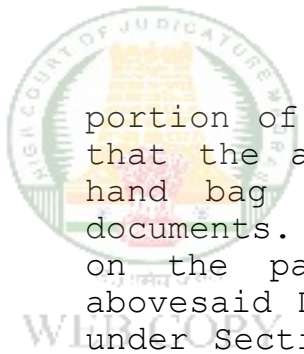
Additional Public Prosecutor (Crl. side)

O R D E R

This writ petitioner is filed seeking transfer of investigation in Crime No.47 of 2020 from the file of the third respondent police station to the second respondent and with consequential direction for speedy completion of investigation.

2.The case of the petitioner in brief:

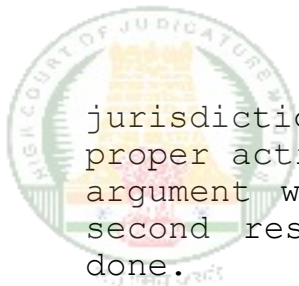
On 16.12.2016, the petitioner, after redeeming the jewellery weighing 5 sovereigns of gold, was keeping the same in his hand bag along with Rs.30,000/-. He also kept some other documents. He was carrying of those things in a bag and he has reached the paddy field about 11.00 p.m at night on a call made by the first accused namely, Durairaj stating that he has to visit the paddy field to know as to whether irrigation is done or not. On reaching the paddy field, the petitioner kept the hand bag near motor pump set and gone to other



portion of the filed to verify the water. On his return, he found that the above said accused persons found missing along with the hand bag which contained Rs.30,000/-, gold jewellery and other documents. Therefore, he lodged a complaint and there was no action on the part of the police officials, who are supporting the abovesaid Durairaj. Thereafter, the petitioner has filed a petition under Section 156(3) of Cr.P.C before the jurisdictional court upon which a case has been registered in Crime No.47 of 2020 for the offences under Sections 406, 417, 420 IPC. Even though the offence under Section 379 IPC was omitted to be mentioned, even after lapse of 1 year, no proper investigation has been undertaken and the jewellery as well as the documents were not recovered so far. Finding that proper investigation has not been undertaken, this petition has been filed.

3.Heard both sides.

4.The occurrence is said to have taken place on 16.12.2016 but the First Information Report has been registered only based upon the order passed by the learned Judicial Magistrate, Musiri in Cr.M.P.No.5528 of 2019. Even after registering the First Information Report it appears that more than 4 years have been taken by the police Department. Finding that there is something in the whole affairs, CD file was called for and CD file has also been produced. A perusal of the CD file shows that right from the year 2016, the petitioner was making complaints against the above said accused person stating that full facts and repeated complaints have been sent to the concerned jurisdictional police as well as the higher officials but nothing fruitful had been undertaken. During the pendency of the above said complaint, it appears that the above said accused persons along with his wife executed a document called ''Bokiya Pathiram'' in which he has undertaken to return Rs.30,000/- and 4 sovereigns of gold jewels or or before 01.01.2017. It was also agreed that after return of the above said jewels the complaint given by the petitioner must be withdrawn. It was executed on 25.12.2016. Even after expiry of the above said deed, it was not returned. So again this petitioner sent another complaint on 01.01.2017 stating that as per the undertaking they did not return the same. So even after that nothing moved. Thereafter only after long wait he has filed the petition before the Judicial Magistrate, Musiri, as noted above. The original complaint has been registered in Crime No.231 of 2016. On the basis of the above said agreement between the parties it was kept pending. So finally the above said proceedings had been undertaken. These are the events that took place before the Vathalai Police Station in the year 2016 and 2017. After direction given by the Judicial Magistrate, Musiri in the above petition, it is seen that statement of the witnesses have been recorded but no efforts have been made to secure the accused persons and to recover the jewels as well as money. Without making proper efforts, it is seen that a draft final report has also been prepared but it has also not properly presented before the concerned



jurisdictional Magistrate. So on finding that the long delay and no proper action, the learned counsel for the petitioner at the time of argument would submit that if investigation is transferred to the second respondent then something fruitful can be expected to be done.

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5. On going through the entire materials that have been produced before this Court, I am of the considered view that no proper investigation has been undertaken by the Investigating Officer in this matter. In a half hearted manner it has been undertaken for recovering the amount of Rs.30,000 and 5 sovereigns of jewels, the petitioner is fighting for more than 5 years. So I am of the considered view that it is fittest case for transferring the case to the second respondent herein, who shall undertake the investigation and file final report within period of 3 months from the date of receipt of a copy of this order. The learned Government Advocate (Crl.side) is also hereby required to transfer the entire CD file to the second respondent without waiting for formal order from the first respondent herein for handing over the file. On receipt of the file and a copy of this order, the second respondent shall undertake the investigation as noted above. After completing the investigation and file a final report before the concerned court, compliance report shall be sent to the Registry.

6. In the result, this petition is allowed.

Sd/-

Assistant Registrar (A.D II)

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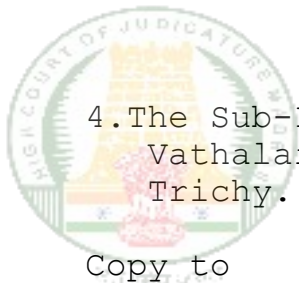
/ /2021

Sub Assistant Registrar(CS)

CM

To

1. The Superintendent of Police,
Trichy District.
2. The Deputy Superintendent of Police,
District Crime Branch,
Trichy District.
3. The Inspector of Police,
Vathalai Police Station,
Trichy.



4.The Sub-Inspector of Police,
Vathalai Police Station,
Trichy.

Copy to

1.The Registrar (Judicial),
Madurai Bench of Madras High Court,
Madurai.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl. O.P. (MD) No.12845 of 2021
27.10.2021

SRK(CO)

RS/PM (10.11.2021) 4P 7C