



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.01.2021

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P. (MD)Nos.11975 to 11979 of 2015

and

M.P. (MD)Nos.1,1,1,1,1, 2,2,2,2 and 2 of 2015

WEB COPY

1. P.V.Prabaharan

2. P.Venugopal

... Petitioners
in all petitions

Vs.

1. The Inspector General of Police,
South Zone,
New Natham Road,
Madurai-2, Tamil Nadu.

2. The Deputy Inspector General of Police,
Ramanathapuram Range,
Ramanthapuram District.

3. The Inspector of Police,
Keanikarai police station,
Ramanathapuram District.

4. The Circle-Inspector of Police,
Vanniampatti police station,
Srivilliputhur Town,
Virudhunagar District.

5. The Inspector of Police,
T.Kalluppatti police station,
Suppalapuram,
Madurai District.

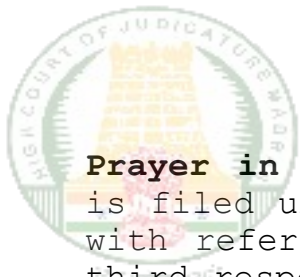
6. The Inspector of Police,
M.Chatrapatti police station,
Madurai, Madurai District.

7. The Inspector of Police,
Karuppayurani police station,
Madurai District.

8. The Director General of Police,
CBCID, Chennai. ... Respondents 1 to 8 in all petitions

(8th respondent suo motu impleaded
as per the order of this Court
dated 20.01.2021).

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Prayer in Crl.O.P.(MD)No.11975 of 2015: Criminal Original petition is filed under Section 482 of Cr.P.C, to transfer the investigation with reference to Crime No.249 of 2014 pending on the file of the third respondent police to the file of an independent investigating agency such as the CBCID or any other appropriate agency and direct them to file a report before this Court after conducting a proper investigation in the above captioned crime numbers.

Prayer in Crl.O.P.(MD)No.11976 of 2015: Criminal Original petition is filed under Section 482 of Cr.P.C, to transfer the investigation with reference to Crime No.328 of 2014 pending on the file of the fifth respondent police to the file of an independent investigating agency such as the CBCID or any other appropriate agency and direct them to file a report before this Court after conducting a proper investigation in the above captioned crime numbers.

Prayer in Crl.O.P.(MD)No.11977 of 2015: Criminal Original petition is filed under Section 482 of Cr.P.C, to transfer the investigation with reference to Crime No.1427 of 2014 pending on the file of the sixth respondent police to the file of an independent investigating agency such as the CBCID or any other appropriate agency and direct them to file a report before this Court after conducting a proper investigation in the above captioned crime numbers.

Prayer in Crl.O.P.(MD)No.11978 of 2015: Criminal Original petition is filed under Section 482 of Cr.P.C, praying to transfer the investigation with reference to Crime No.628 of 2014 pending on the file of the 7th respondent police to the file of an independent investigating agency such as the CBCID or any other appropriate agency and direct them to file a report before this Court after conducting a proper investigation in the above captioned crime numbers.

Prayer in Crl.O.P.(MD)No.11979 of 2015: Criminal Original petition is filed under Section 482 of Cr.P.C, praying to transfer the investigation with reference to Crime No.162 of 2014 pending on the file of the 4th respondent police to the file of an independent investigating agency such as the CBCID or any other appropriate agency and direct them to file a report before this Court after conducting a proper investigation in the above captioned crime numbers.

(in all Crl.OPs.)

For Petitioners

: Mr.Venkatesh Mohanraj

For Respondents

: Mr.A.Robinson,

Government Advocate(Crl. Side).

* * *

**COMMON ORDER**

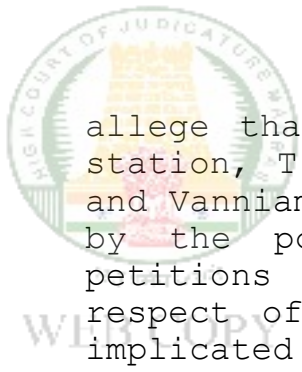
Heard the learned counsel appearing for the petitioners and the learned Government Advocate(Crl. Side) appearing for the respondents. The Director General of Police, CBCID, Chennai, is suo motu impleaded as the eighth respondent.

2.The petitioners are running a firm in the name and style of "M/s.Sumathi Jewellers" at No.5, Jansirani Complex, Opp. to YMCA, West Avani Moola Street, Jewellery Bazaar, Madurai. They are in the trade for more than three decades. The grievance of the petitioners is that on 20.12.2014 at about 1.30 p.m., a police jeep was found standing outside their shop. The petitioners did not mind this presence because they felt that they had nothing to hide. After a while one of their employees, namely, one Eknath left the shop for having his lunch. At that time, a person in civilian clothing approached him and wanted to know if he was aware of any jewellery shop that would purchase gold jewellery. Eknath is said to have replied that his employer is not in a habit of purchasing jewellery from unknown persons. But the stranger continued to pester Eknath. Even as this was going on, a local broker, by name Pandi introduced himself and offered to make necessary arrangements. Immediately both Eknath and Pandi were apprehended and bundled into the waiting police jeep. The police officials aggressively questioned Eknath and Pandi in the waiting jeep. In the jeep one Saravanan was also kept. He allegedly stated that he had sold 10 sovereigns of gold through Eknath and Pandi to the petitioners herein.

3.Thereupon the police team headed by one Vivekanandan, Inspector of Police, Kenikarai police station, entered the petitioners' shop along with the said Saravanan and demanded that the petitioners should part with 10 sovereigns of gold. The petitioners refused to comply with the said demand. The petitioners in the meanwhile sent messages to their association office bearers. Thereupon the members of the association came to the petitioners' shop.

4.The scene thereafter shifted to the office of the Commissioner of Police, Madurai. Negotiations went on. The petitioners were pressurised. The petitioners herein were very clear that they will not succumb to the demand made by the Kenikarai police. Thereafter, Eknath and Pandi were taken by Kenikarai police to Ramnad. The petitioners were telephonically contacted thereafter and under coercion, they were compelled to part with 10 sovereigns of gold ingots to the police. Thereafter, Pandi and Eknath were released.

5.The allegation of the petitioners is that there were successive raids from several other police stations also. The petitioners became the proverbial golden goose. The petitioners



allege that they faced predatory visits from Karuppayurani police station, T.Kalluppatti police station, M.Chatrapatti police station and Vanniampatti police station. Unable to bear the pressure exerted by the police, the petitioners filed these criminal original petitions before this Court seeking transfer of investigation in respect of the cases in which the petitioners were sought to be implicated as recipients of stolen gold jewellery.

6.One such case pertains to Crime No.162 of 2014 registered on the file of Vanniampatti police station. Vide order dated 30.06.2015 in Crl.O.P.(MD)No.11979 of 2015, a learned Judge of this Court passed the following order:-

"2. Though, the learned Government Advocate (Crl. Side) would submit that Charge Sheet has been filed before the jurisdictional Magistrate, by considering the facts and circumstances of the case and contentions made by the learned counsel, the Superintendent of Police, Virudhunagar is directed to transfer the case in Crime No.162 of 2014 on the file of the fourth respondent to the Superintendent of Police, Madurai for further investigation under his control. The respondent police is further directed not to call the petitioners for enquiry. Consequently, connected miscellaneous petitions are closed."

7.While so, one of the accused, namely, Manikandan in Crime No.162 of 2014 on the file of Vanniampatti police station applied for bail by filing Crl.O.P.(MD)No.17365 of 2015. Even while dismissing the bail petition, this Court had directed disposal of the case on merits and in accordance with law. Thus, the Assistant Sessions Judge, Srivilliputhur, was confronted with two orders, namely, order dated 30.06.2015 in Crl.O.P.(MD)No.17979 of 2019 and order dated 08.09.2015 in Crl.O.P.(MD)No.17365 of 2015. The question is whether in view of the subsequent direction, the earlier order dated 30.06.2015 would stand automatically recalled.

8.Today this Court heard the learned counsel appearing for the petitioners at considerable length. He has produced solid materials before me indicating that Saravanan, prime accused in Crime No.249 of 2014 on the file of Kenikarai police station was very much in the petitioners' shop on 20.12.2014 at 01.30 p.m. This was caught in the CCTV footage also. But strangely he was shown as arrested only in the evening hours that too at ECR road, Ramanathapuram. I therefore have no doubt whatsoever in my mind that the said Saravanan was deliberately brought to Madurai in order to collect some information for the purpose of effecting some recovery. Eknath, the employee of the petitioners herein appears to have been an inadvertent victim. The petitioners were made to part with 10 sovereigns of gold and the same was produced before the Court below.



9.The learned Government Advocate(Crl.Side) on instructions from the concerned police submitted that after the trial in P.R.C.No.14 of 2016(Crime No.216 of 2014 on the file of Kenikarai police station) on the file of the Judicial Magistrate No.II, Ramnad, is pending, the case under Section 411 of I.P.C. would be taken up against Pandi and Eknath,if the trial court is convicted the accused. I have to bear in mind that a learned Judge of this Court has already passed orders for transferring the investigation.

10.In this view of the matter, the order passed by me on 28.12.2019 under the caption "for being mentioned" would stand recalled.

11.Crl.O.P.(MD)No.11975 of 2015 relates to Crime No.249 of 2014 on the file of Kenikarai police station, Ramanathapuram. In this case charge sheet has been filed and the petitioners are not arrayed as accused. It is a case pertaining to the offence under Section 302 of I.P.C. One Saravanan is figuring as the main accused. It is on the strength of his confession that Eknath, employee of the petitioners came to be implicated in Crime No.216 of 2014 on the file of Kenikarai police station registered under Section 395 of I.P.C. The same has been charge sheeted in P.R.C. No.14 of 2016. Even though the final report has been filed, this Court is not denuded of its power to direct the transfer of investigation. For the reasons already mentioned, the case in Crime No.216 of 2014 on the file of Kenikkarai police station is transferred to CBCID so that further investigation can be conducted by CBCID. The Inspector of Police, Kenikarai Police Station, Ramanathapuram District is directed to immediately transfer all the papers to DGP, CBCID, Chennai who will appoint a new investigation officer for conducting further investigation and file supplementary final report. Till the supplementary final report is filed by CBCID, further proceedings in P.R.C.No.14 of 2016 on the file of the Judicial Magistrate No.II, Ramanathapuram, shall stand stayed. Though Crl.O.P.(MD)No.11975 of 2015 has been filed in respect of Crime No.249 of 2014 on the file of Kenikarai police station, in view of the aforesaid direction, Crl OP(MD)No.11975 of 2015 stands disposed of.

12.The Inspector of Police, T.Kallupatti Circle, Madurai District, has filed a status report mentioning that the investigation in Crime No.328 of 2014 is over and that final report has been filed and taken on file as P.R.C.No.27 of 2017. The petitioners herein are not shown as accused in the said case. Therefore, Crl.O.P.(MD)No.11976 of 2015 has to be closed and it is accordingly closed.

13.The petitioners are not shown as accused in Crime No.1427 of 2014 on the file of the M.Chatrapatti police station based on the



confession of the co-accused and recovery was made from an another jewellery shop at Kovilpatti, Crl.O.P.(MD)No.11977 of 2015 stands closed.

14.Crl OP(MD)No.11978 of 2015 pertain to Crime No.628 of 2014 registered on the file of the Inspector of Police, Karupayurani Police Station, Madurai District. When the criminal original petition was taken up for disposal on 30.06.2015, it was submitted that all the papers have been given to the Superintendent of Police for transferring the investigation. Recording the said submission, the petition was closed. It was also directed that Karupayurani Police will not call the petitioners for enquiry. Since in related cases, I had directed that CBCID should investigate the matter further, the concerned Superintendent of Police is directed to transmit all the papers to DGP, CBCID, Chennai. The Director General of Police, CBCID, Chennai shall pass appropriate orders for appointing a new investigation officer. I am constrained to direct the Superintendent of Police, Ramanathapuram because Crime No.628 of 2014 was transferred from Karupayurani Police Station to Bazaar Police Station, Ramanathapuram District and re-registered as Crime No.236 of 2015.

15.Crl OP(MD)No.11979 of 2015 pertains to Crime No.162 of 2014 registered on the file of the Vanniyampatti Police Station, Virudhunagar District. When the case was taken up for disposal on 30.06.2015, it was submitted that the final report has already been filed before the jurisdictional court. However, taking note of the facts and circumstances of the case, the Hon'ble Judge directed the Superintendent of Police, Virudhunagar District to transfer the case to Superintendent of Police, Madurai for further investigation. As aforesaid, since in related cases, I had directed that CBCID should investigate the matter further, the Superintendent of Police, Madurai is directed to transmit all the papers to DGP, CBCID, Chennai. The Director General of Police, CBCID, Chennai shall pass appropriate orders in this case also for appointing a new investigation officer. Consequently connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(Writs)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

pmu/skm



To:

1. The Inspector General of Police,
South Zone, New Natham Road,
Madurai-2, Tamil Nadu.
2. The Deputy Inspector General of Police,
Ramanathapuram Range,
Ramanathapuram District.
3. The Inspector of Police,
Kenikarai police station,
Ramanathapuram District.
4. The Circle-Inspector of Police,
Vanniampatti police station,
Srivilliputhur Town, Virudhunagar District.
5. The Inspector of Police,
T.Kalluppatti police station,
Suppalapuram, Madurai District.
6. The Inspector of Police,
M.Chatrapatti police station,
Madurai, Madurai District.
7. The Inspector of Police,
Karuppayurani police station, Madurai District.
8. The Director General of Police,
CBCID, Chennai.
9. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Copy to

1. The Assistant Sessions Judge, Srivilliputhur.
2. The Judicial Magistrate No.II, Ramanathapuram.
3. The Superintendent of Police, Virudhunagar District.
4. The Superintendent of Police, Madurai.
5. The Superintendent of Police, Ramanathapuram.

+2 CC to M/s.VENKATESH MOHANRAJ, Advocate (SR-1530[F] dated 21/01/2021)

Cr1.O.P(MD)Nos.11975 to
11979 of 2015
20.01.2021

ns (CO)

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