



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE DR.G.JAYACHANDRAN

Crl.O.P(MD)No.15840 of 2017

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Syed Sulaiman Sait

... Petitioner

-vs-

1. The Home Secretary of Tamil Nadu
Secretariat, Chennai-600 009.
2. The Director General of Police,
O/o. Director General of Police,
Beach Road, Chennai.
3. The Joint Director CBI,
Sasthiri Bavan, 26, Hadvush,
Nunkampakkam, Chennai.
4. The Superintendent of Police,
O/o.Superintendent of Police,
Tirunelveli.
5. The Inspector of Police,
Kalakadu Police Station,
Tirunelveli District.
(Crime No.263/2015).
6. The Inspector of Police,
Aralvaimozhi Police Station,
Kanniyakumari District.

... Respondents

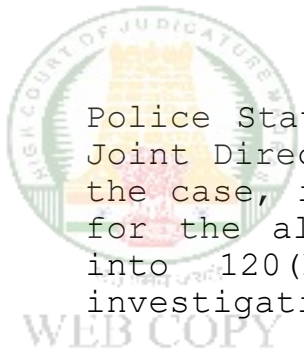
PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to transfer the investigation of the case in Crime No.263 of 2015 from the respondents Nos.5 and 6 to respondent No.3.

For Petitioner : Mr.S.M.A.Jinnah
For Respondents : Mr.A.Thiruvadikumari
Additional Public Prosecutor

O R D E R

Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

2.The relief sought in the petition filed under Section 482 of Cr.P.C., is to transfer the investigation of the case in Cr.No.263 of 2015 from the respondents Nos. 5 & 6 to respondent No.3 and pass appropriate orders. The fifth respondent in this petition is the Inspector of Police, Kalakdu Police Station, Tirunelveli District and the sixth respondent is the Inspector of Police, Aralvaimozhi



Police Station, Kanyakumari District. The third respondent is the Joint Director, CBI. The sum and substance of the petition is that the case, in which, the petitioner, who is arrayed as accused No.6 for the alleged offence under Sections 302 of IPC later altered into 120(b), 364, 147, 148, 302 r/w 149 IPC, wants the investigation to be done by CBI.

3. In the status report filed by the Superintendent of Police, Kanyakumari District, it is disclosed that the petitioner has several criminal cases at Kalakadu police station, Aralvoimozhi Police Station, Thuckalay Police Station and Eruvadi Police Station. He is the 6th accused in Cr.No.263 of 2015, In the case of murder of one Kumaradhas of Tenkasi as a revenge to an earlier murder. In the course of investigation, the petitioner made representation to the higher officials expressing his doubt about fair investigation. Therefore, the Deputy Superintendent of Police, Thakalai was entrusted with the investigation of the case and he has completed the investigation and filed a final report before the learned Judicial Magistrate, Padmanabhapuram. The final report has been taken on file vide P.R.C.No.12 of 2021, dated 07.07.2021. The status report also discloses the stage of investigation of the other cases pending against this petitioner.

4. In the said circumstances, this Court finds there is no reason or necessity to transfer the case to any other agency.

5. The learned Additional Public Prosecutor appearing for the respondents would submit that the present petition is not maintainable, primarily, (I) for change of transfer of investigation, accused person have no valid reason, except the delay in investigation; (ii) The Deputy Inspector General of Police, Tirunelveli Range vide proceedings C.No.C3/8761/2019, dated 30.08.2019 has ordered to transfer the case in Kalakadu Police Station Cr.No.263 of 2015 to Thuckalay Police Station and requested the Superintendent of Police, Kanyakumari District to nominate an Investigating Officer for further investigation. Pursuant to the above order, the Superintendent of Police, Kanyakumari District vide proceedings C.No.C1/34905/2019, dated 24.09.2019 had appointed the Deputy Superintendent of Police, Thuckalay Sub Division as the Investigating Officer and conduct further investigation and to file final report. Accordingly, on completion of the investigation, final report also filed. Therefore, there is no reason for the petitioner herein to suspect or disbelieve the course of investigation.

6. In respect of change of investigation, the Court has power to order change of investigating agency, in case, which deserve for such order. However, it must be in rarest of such case and in exceptional case. A perusal of the records and the action taken by the respondent police by changing the investigating officer and



Superintendent of Police is sufficient to inspire the confidence in the mind of the public and no further order for change of investigation warrants in this case.

7. Accordingly, this Criminal Original Petition is dismissed.
No costs.

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Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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 Home Secretary of Tamil Nadu
Secretariat, Chennai-600 009.
2. The Director General of Police,
O/o. Director General of Police,
Beach Road, Chennai.
2. The Joint Director CBI,
Sasthiri Bavan, 26, Hadvush,
Nunkampakkam, Chennai.
4. The Superintendent of Police,
O/o.Superintendent of Police, Tirunelveli.
5. The Inspector of Police,
Kalakadu Police Station,
Tirunelveli District.
6. The Inspector of Police,
Aralvaimozhi Police Station,
Kanniyakumari District.
7. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.