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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.04.2022

CORAM :

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.6095 of 2022

Kondamuri Sri Hari Kusuma Kumar ... Petitioner

Vs.

1. The Secretary to the Government of Puducherry,
Department of Home,
The Union Territory of Puducherry,
Puducherry State.

2. The Deputy Director,
CBI, South Zone,
Rajaji Bhavan,
Besant Nagar, Chennai.

3. The Station House Officer,
Yanam Police Station,
Yanam. (Crime No.2/2022)

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 Criminal Procedure Code, pleaded to direct the first respondent to transfer the investigation of the case in Cr.No.2 of 2022 from the file of the third respondent to the second respondent or any other investigation agency and proceed with the investigation.

For Petitioner : Mr.S.Doraisamy

For Respondents : Mr.V.Balamurugane
Public Prosecutor, Puducherry

O R D E R

This Criminal Original Petition has been filed seeking to direct the the first respondent to transfer the investigation of the case in Cr.No.2 of 2022 from the file of the third respondent to the second respondent or any other investigation agency and proceed with the investigation.



2. Learned counsel for the petitioner would submit that the petitioner is a President of Yanam Society for Vigilance and Anti-Corruption. He is also a social activist. He has also given several complaints against several officials of Yanam, who involved in corrupt practices. He would further submit that based on the complaint given by the petitioner, five cases have also been registered against the erring officials in Yanam. He would also submit that previously, the petitioner had given the complaint against the former MLA and the case was also transferred to CBI.

3. He would also submit that one Mr.Gollapali Srinivasa Ashok is the sitting MLA of Yanam Constituency and he has been actively indulging in corrupt activities by using his political power for unlawful gain. The petitioner got knowledge about the illegal activities of the sitting MLA and had advised him not to indulge in unlawful activities. The MLA antagonised by the same, had directed the third respondent to foist the false case against the petitioner. After meeting MLA, the petitioner had received life threatening calls from the henchmen of the MLA, one Devava Sreenu from the phone No.73970 86639, 87907 73525 and from one Yalax from the phone No.63010 95020. However, based on the instigation of the sitting MLA, a case has been registered in Crime No.1 of 2022 was foisted against the petitioner on 03.01.2022 for the offences under Sections 294(b), 153, 504, 506 of IPC falsely alleging that the petitioner had recorded an audio clip using filthy words against the MLA and had uploaded the same in social media. While being so, on 04.01.2022, at about 7.40 pm., when the petitioner was in a temple at Yanam, the said Yalax along with his henchmen, came to the temple and deactivated all the CCTV cameras installed in the temple and had indiscriminately, attacked the petitioner. The attack was done on the instigation of the sitting MLA. On the same day, the petitioner had given a complaint to the 3rd respondent.

4. Learned counsel would further submit that however, the 3rd respondent had refused to receive the complaint. Thereafter, on the instance of the petitioner's brother, one Kondamuri Kusuma Nagendra, a case was registered in Crime No.2 of 2022 for offences punishable under Sections 147, 148, 324, 506, 149 of IPC. However, without taking action on the MLA, the third respondent had arrested the petitioner in Crime No.1 of 2022 and taken him to the Police Station and brutally assaulted him, paraded and dragged him through the main road in a half naked manner. The petitioner at the time of remand had also intimated the same to the Magistrate. He would further submit that the



sitting MLA is behind the attack on the petitioner. Whereas, the respondent is not conducting the investigation in a proper manner and is taking every possible steps to protect the sitting MLA and delete his name. Thereby, the present petition has been filed seeking to transfer the investigation to the 2nd respondent or any other investigation agency, since the sitting MLA using his influence and powers on the respondent not to conduct the investigation in the proper manner.

5. Learned Additional Public Prosecutor, Puducherry would submit that there seems to be enmity between the petitioner and the sitting MLA and that he has given a complaint against the MLA. The investigation has been conducted and during the investigation, it was found that the MLA was not present in Yanam at that time. He would further submit that the investigation has been completed and the respondent is ready to file the final report.

6. Heard the learned counsel and perused the materials available on record.

7. It is seen that the petitioner has made specific allegations against the 3rd respondent stating that the attack was only on the instigation of the sitting MLA, whereas it is his case that the 3rd respondent is not taking action against the sitting MLA, who has instigated the attack. Taking into consideration the facts and circumstances of the case, this Court is of the opinion that this is not the case required to be transferred to CBI. However, this Court feels that it would be appropriate that a Superior Officer in the rank of IPS cadre can be directed to look into the file and order for further investigation, if necessary.

8. In view of the above, the respondent shall hand over the CD file to the Senior Superintendent of Police, Law and Order, Puducherry, immediately and he shall look into the file and based on available materials, order for further investigation if necessary. Recording the same, the Criminal Original Petition stands disposed of.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR



ham/rgi

To

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1. The Secretary to the Government of Puducherry,
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3. The Station House Officer,
Yanam Police Station,
Yanam.
4. The Public Prosecutor,
High Court, Madras.
5. The Senior Superintendent of Police,
Law and Order, Puducherry.

+1cc to Mr.S.Doraisamy, Advocate Sr.24899

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srg 26/04/2022