



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2022

CORAM :

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CRL.O.P.NO.4631 OF 2022

S.Kasi

...Petitioner

Vs

1.The Inspector of Police,
TIW East Police Station,
Coimbatore.

2.The Inspector of Police,
CBCID, Grey Town, ATT Colony,
Gopalapuram,
Coimbatore - 641 018.

...Respondents

Prayer : Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, praying to withdraw and transfer the Crime No.392 of 2021 pending investigation on the file of the 1st respondent to the 2nd respondent.

For Petitioner : Mr.M.Mohamed Riyaz

For Respondents : Mr.A.Gokulakrishnan
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed to withdraw and transfer the Crime No.392 of 2021 pending investigation on the file of the 1st respondent to the 2nd respondent.

2. The case of the petitioner is as under:-

i) The petitioner's son one Mukesh Kannan, aged about 19 years, is a third year student of BBA-Aviation student of Kasturi Institute of Management Studies. On 7.10.2021, the petitioner's son Mukesh Kannan, alongwith his college mates had accompanied one of the college mates to the Coimbatore Railway Station to send him off. While they were returning, a bus bearing Registration No.TN38-AF-9299 belonging to Lakshmi Machine Works Limited, driven in a rash and negligent manner, had dashed against the two wheeler driven by the petitioner's son.



ii) Due to the accident, the petitioner's son sustained a head injury and other serious injuries all over the body. He was admitted in the nearby Hospital called G.Kuppusamy Naidu Memorial Hospital and the petitioner's son had undergone an emergency surgery and a titanium plate was fixed in his skull.

iii) On information from the hospital, the police belonging to the first respondent police station had visited the hospital and since the petitioner's son was unconscious, they had obtained signatures in blank paper from the friend of the petitioner's son, one Rajkumar, who had travelled along with him with an assurance to register a case against the erring persons viz., the driver and owner of the Bus, which caused the accident. The petitioner's friend, who was in panic mode, signed the blank papers as directed by the Sub-Inspector of Police believing the assurance given by him.

iv) To the shock and surprise of the petitioner, a complaint was foisted on 8.10.2021, incriminating the petitioner's son and a case was registered against the petitioner's son for offences punishable under Sections 279 and 338 IPC in Crime No.392 of 2021 as if the petitioner's son had driven the two wheeler in a rash and negligent manner and dashed against the bus resulting in the accident. Even without conducting preliminary enquiry with regard to the place of occurrence and without even verifying the footages from the CCTV camera available in the location, the first respondent had registered the FIR as if the petitioner's son was at fault. This has been done with a motive of helping the driver of the bus.

v) When the petitioner had enquired his son's friend, he had stated that his signatures were obtained in blank papers with an assurance of registering a case, against the driver of the bus, however, the complaint has been made ready using such signed blank papers, absolving the driver of the bus and incriminating the petitioner's son. The friend of the petitioner's son had also filed an Affidavit before this Court stating that he had not given such a complaint and the accident had not happened in the manner as described in the complaint.

vi) Since, the investigation was not done in a proper manner and since the Special Sub-Inspector of the first respondent police station had acted in an illegal and cunning manner to absolve the influential owner and driver of the bus from civil and criminal liability, the petitioner had sent a representation dated 13.10.2021 to the Commissioner of Police, Coimbatore seeking to conduct proper investigation and initiate action against the driver of the bus. Finding that no action has been initiated, the present petition has been filed for transfer of



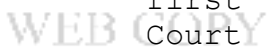
investigation pending on the file of the first respondent to the second respondent.

3. Learned counsel appearing for the petitioner would submit that the first respondent has not conducted proper investigation in the case. He would further submit that in order to absolve the driver and owner of the bus that caused the accident, who are influential persons, the first respondent had incriminated the petitioner's son and foisted a false case against him as if he was at fault for the accident, using the signatures obtained from the friend of the petitioner's son under coercion, who was, by then, under a panic attack caused by the accident. He would also submit that before registering a case against the petitioner's son, the first respondent police did not make any attempt to record the statement of the petitioner's son nor to examine the driver of the bus. He would submit that the respondent police has not called for a Report from the Motor Vehicle Inspector prior to registering a case against the petitioner's son, which reveals that no proper and fair investigation had been conducted in the case and thereby grave injustice has been rendered to the petitioner's son, who is now bedridden. He would, therefore, crave for transfer of investigation from the file of the first respondent to the second respondent.

4. When the matter was listed before this Court on 01.03.2022, it was submitted by the learned Additional Public Prosecutor on behalf of the respondent that the investigation was pending and this Court. Recording the same, and after perusing the original sketch available in the CD file, this court has specifically directed the respondents not to file final report.

5. The matter was taken up for hearing on 15.03.2022, the investigating officer/Sub Inspector of Police, TIW East Police Station, Coimbatore was present in court and when this Court had intended to peruse the original sketch further, to the shock and surprise, it was reported by him that the original documents including the sketch had been filed before the Trial Court and final report had also been filed before the jurisdictional court viz., Judicial Magistrate - VIII, Coimbatore as early as on 8.2.2022 and it had been taken up on file on 4.3.2022 itself and numbered as S.T.C.No.746 of 2022.

6. This Court, being shocked by the submission made by the respondent with regard to filing of final report, called for a Report from the learned Judicial Magistrate - VIII, Coimbatore as to the date on which the final report was filed. The learned Judicial Magistrate - VIII, Coimbatore has sent the report on 16.03.2022, wherein it is stated that though the final report



7. The manner in which the matter has been dealt with by the first respondent creates grave suspicion in the mind of the Court as everything is not alright. When the Court enquired Mr.Arunachalam, Sub-Inspector of Police, who was present in the court as to why a wrong submission was made on 15.3.2022, he submitted that due to inadvertence and miscommunication, a wrong statement was made before this court on 15.3.2022 and he admitted that though the final report was dated 8.2.2022, it had been submitted before the Court only on 4.3.2022 and he apologized for the wrong submission made. He also filed an Affidavit of apology.

8. This Court, while accepting the unconditional apology tendered by the investigation officer, is not satisfied with the manner in which the issue has been dealt with by the Officer. In this matter, the case has been registered on 8.10.2021 and thereafter, finding that it has been registered incriminating the petitioner's son, the petitioner has sent a representation to the Commissioner of Police for transfer of investigation and since no order has been passed by the Commissioner of Police, the petitioner had approached this court.

9. Though a representation was made before this court on 1.3.2022 that final report was not filed before the court, and thereupon, this court had passed an order specifically directing not to file final report, subsequently, the first respondent has acted in a hasty manner and reported before this court on 15.3.2022 as if the final report has been filed as early as on 8.2.2022 and it had been taken up on file on 4.3.2022. The dealing of the matter by the first respondent in haste creates grave suspicion in the mind of this court. This court is of the view that from registration of case till the filing of the final report, the respondent has done the investigation to help somebody. In view of the above, this court is of the opinion that the investigation has to be done afresh in this case.

10. The order of the learned Magistrate taking cognizance of the final report is set aside. The Judicial Magistrate No.VIII, Coimbatore is directed to secure the entire CD file from the first respondent/police and forward it alongwith final report to the Commissioner of Police, Coimbatore within a period of two weeks from the date of receipt of a copy of this order, who shall, in turn, forward the same to the Deputy Superintendent of Police, CBCID, Coimbatore and direct him to conduct the investigation in Crime No.392 of 2021 afresh and file the final report as expeditiously as possible, preferably within a period of four months thereon.



11. With the above direction, this Criminal Original Petition stands disposed of.

WEB COPY

Sd/-
Assistant Registrar (CS-IV)

// True Copy //

Sub Assistant Registrar

jas/tsh/ssk.

To

- 1.The Judicial Magistrate No.VIII,
Coimbatore.
- 2.The Commissioner of Police,
Coimbatore.
- 3.The Deputy Superintendent of Police,
CBCID, Coimbatore.
- 4.The Inspector of Police,
TIW East Police Station,
Coimbatore.
- 5.The Inspector of Police,
CBCID, Grey Town, ATT Colony,
Gopalapuram,
Coimbatore - 641 018.
- 6.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.M.Mohammed Riyaz, Advocate Sr.No.20127

Cr1.O.P.No.4631 of 2022

SS (CO)
RVM(13/04/2022)