



WEB COPY



Crl.O.P.No.5796 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2022

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

Crl.O.P.No.5796 of 2021 and
Crl.M.P.Nos.3765 & 3766 of 2021

N.Senthil Kumar

... Petitioner

Vs.

The Inspector of Police,
E-8, Kelambakkam Police Station,
Old Mahabalipuram Road,
Kittu Nagar, Kelambakkam,
Chennai 603 103.

... Respondent

Prayer : Criminal Original Petition has been filed under Section 482 of Cr.P.C. to transfer the investigation with respect to FIR No.398 of 2018 from the respondent police to CBCID North Zone, Metro Wing.

For Petitioner

... Mr.Adeez Anto

For Respondent

... Mr.A.Damodaran,
Addl. Public Prosecutor



ORDER

WEB COPY

This Criminal Original Petition has been filed to transfer the investigation with respect to FIR No.398 of 2018 from the respondent police to CBCID North Zone, Metro Wing.

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

3. This Court has passed an interim order on 30.09.2022. The relevant portion of the said order is extracted hereunder:

“This Criminal Original Petition has been filed to transfer the investigation from the 1st respondent police to some other agency on the allegation that the first respondent police is colluding with the accused.

2. In this regard, the learned counsel for the petitioner submitted that a Writ Petition has already been filed in W.P.No.12052 of 2016 by the petitioner herein, challenging the non-traceable certificate, dated 30.09.2013 issued by the 1st respondent police in favour of the 2nd respondent / accused. On hearing both side, this Court by an order dated 22.02.2017, allowed the Writ Petition, observing that the first respondent had issued the non-traceable certificate



dated 30.09.2013 without following due process of law because the original sale deed is under the custody of the petitioner in Document No.1215 of 1976.”

4. It is learnt that the order passed in the writ petition in W.P.No.12052 of 2016 was challenged by the second respondent therein in W.A.No.1034 of 2017. The said Writ Appeal was dismissed as withdrawn on 13.09.2017. However, in the said order, the following observations have been made:

“10. We make it clear, if, that the police department finds that there is criminality involved in the appellant lodging a false complaint, they would take the matter further to its logical conclusion.

10.1. The outcome of the deliberations of the Deputy Director of Prosecution, Kancheepuram District, shall be conveyed to both, the appellant as well as respondent No.1.

10.2. The Deputy Director of Prosecution, Kancheepuram District, will render his opinion in the matter within four (4) weeks from today.”



5. Since a direction has been given in the above order that the opinion of the Deputy Director of Prosecution, Kancheepuram District should be rendered within a period of four weeks, the same ought to have got complied. Due to failure on the part of the authority, the petitioner is said to have taken contempt proceedings in Cont.P.No.32 of 2018 and the same was closed on 09.08.2018. Paragraph No.4 of the said order is extracted hereunder:

“4. As seen from the affidavit, the contemnor has also retired from service with effect from 30.06.2018. Since the police have already registered an F.I.R. against the third respondent, nothing survives for further adjudication in this matter.”

6. Thereafter, the petitioner has filed Crl.O.P.No.11832 of 2019, for seeking direction to the first respondent to file a final report in Crime No.398 of 2018 in a stipulated time frame. The said petition was disposed on 29.04.2019 with the following observations:

“4. Considering the facts and circumstances of the case, this Court directs the respondent police to complete the investigation in Crime No.398 of 2018 pending on the file of



the respondent police and file a final report within a period of three months from the date of receipt of a copy of this order.”

7. Since the said direction was not complied, yet another Contempt Petition was filed in Cont.P.No.1228 of 2021 and the same was disposed on 28.09.2021. From the order passed in the said contempt proceedings, it is learnt that the respondent police had informed the Court that the investigation has been transferred to the Inspector of Police, District Crime Branch, Kanchipuram. Hence a direction was given to the Inspector of Police, District Crime Branch, Kanchipuram to complete the investigation and file a final report within a period of six weeks. After that also, the final report was not filed. Hence the petitioner seems to have filed RTI application to the Information Officer -cum- Additional Superintendent of Police, Kanchipuram. For which, the petitioner was informed that the case was not transferred to District Crime Branch, Kanchipuram.

8. However, the learned Additional Public Prosecutor submitted that though steps were taken to transfer the case to District Crime Branch,



Crl.O.P.No.5796 of 2021

Kanchipuram, due to bifurcation of the Commissionerate and a new Commissionerate has been established at Tambaram, the case was retained with the respondent police themselves and the investigation is in progress.

9. For the complaint which has been given in the year 2015, so far, no fruitful action has been taken. The above proceedings would only show that the petitioner was made to run from pillar to post each time right for the respondent police to take the complaint on file and thereafter for not complying the orders of the Court and so on.

10. However, the Deputy Commissioner of Police, Pallikaranai, who made his appearance yesterday when the case was posted on 14.11.2022, assured that all possible steps will be taken to complete the investigation within a period of four weeks. It is further submitted that the petitioner cannot have any more grievance because the erstwhile Investigation Officer against whom the petitioner got dissatisfaction, has got transferred and now a new Officer has assumed charge.



Crl.O.P.No.5796 of 2021

11. Taking into consideration of these facts, once again this Court directs the respondent police to complete the investigation within a period of four weeks from the date of receipt of a copy of this order. The Deputy Commissioner, Pallikaranai shall monitor the investigation and see the order of the Court is obeyed.

12. With the above direction, this Criminal Original Petition is disposed. Consequently, connected miscellaneous petitions are closed.

15.11.2022

Index: Yes/No
Internet: Yes/No
gsk

To

1.The Inspector of Police,
E-8, Kelambakkam Police Station,
Old Mahabalipuram Road,
Kittu Nagar, Kelambakkam,
Chennai 603 103.

2.The Public Prosecutor,
High Court, Madras.



WEB COPY



Crl.O.P.No.5796 of 2021

R.N.MANJULA ,J.

gsk

Crl.O.P.No.5796 of 2021 and
Crl.M.P.Nos.3765 & 3766 of 2021

15.11.2022