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CrI.O.P.No.6636 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :01.07.2022

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

CrI.O.P.No.6636 of 2022
and CrI.M.P.No.5367 of 2022

Thirunavukkarasu

... Petitioner

Vs.

1. The Director General of Police,
Mylapore,
Chennai – 600 004.
2. The Inspector General of Police,
Idol Wing CID,
SIDCO, Old Corporate Building,
Thiru Vi.Ka. Industrial Estate,
Guindy, Chennai – 32.

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., pleaded to order further investigation of the case in Cr.No.26 of 2017 on the file of the second respondent by the first respondent to any other agency preferable CBCID and find out the truth and recover the Lord Muruga Idol.

For Petitioner : Mr.S.Doraiswamy

For Respondents : Mr.A.Gokulakrishnan
Additional Public Prosecutor



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ORDER

This Criminal Original Petition has been filed seeking to transfer the investigation in Crime No.26 of 2017 on the file of the second respondent to some other agency preferably CBCID.

2. Originally, the crime has been registered for the theft of lord Muruga Idol from Rajalingamurthy temple at Kodanthur Village and the respondent Police has filed the negative final report which was objected by the petitioner herein, by way of filing protest petition. The learned Judicial Magistrate after considering the objections and pointing out the lapse on the part of investigation agency, directed the Investigation Officer/R2 to conduct further investigation vide order dated 13.12.2021.

3. Now the grievance of the petitioner is that the second respondent has not traced the idol and if the investigation is continued by the same agency, then the investigation would not be fair.

4. Mr.S.Doraiswamy, learned counsel appearing for the petitioner submitted that unless the investigation is transferred to CBCID, the crime cannot be unearthed and hence, he seeks to transfer.



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5. Mr.A.Gokulakrishnan, learned Additional Public Prosecutor submitted that they have made every efforts and conduct fair investigation, however, they could not trace the Idol. Though, he has no objection for transferring the investigation to CBCID, he pointed out the order passed by the Hon'ble Division Bench in CrI.OP.Sr.No.40799 of 2018.

6. On perusal of the papers filed in the typed set of papers, it comes to the notice of the court that to deal with the case relating to the theft of idol of temples, a Special Bench was constituted. The Hon'ble Division Bench of this Court by an order dated 07.09.2018, rejected the transfer of investigation to CBCID and held as follows, “it is made clear that since the idol wing dealing specifically the theft of idols, investigation to another agency is rejected.”

7. Considering the same, once the Hon'ble Division Bench of this Court had rejected the prayer for transferring the investigation to CBCID, the similar prayer now sought for by invoking the jurisdiction under Section 482 Cr.P.C., cannot be given. If such direction is given, it will amount to over turning the order of the Hon'ble Division Bench. This Court cannot pass such an order sitting over the order of the Hon'ble Division Bench.



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8. In such view of the matter, this Court is of the opinion that as directed by the trial Court to conduct further investigation and also pointed out the direction in which the investigation should be carried out, the second respondent shall conduct the fair investigation and file the final report.

9. With the above observations, the Criminal Original Petition stands dismissed and since the main petition itself dismissed, the question of impleading does not arise at all, therefore, the impleading petition in CrI.M.P.No.5367 of 2022 is also dismissed.

01.07.2022

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Speaking Order/Non-speaking Order
Index :Yes/No
Internet:Yes/No



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To

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3. The Public Prosecutor,
High Court of Madras.



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N. SATHISH KUMAR, J.

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