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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:25.02.2022

Coram

THE HONOURABLE MR. JUSTICE P.N.PRAKASH
and
THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

Crl.O.P.No.15781 of 2018

S.J.Viswanathan
S/o.Late K.S.Jagannathan ...Petitioner/Defacto Complainant
(substituted as per order
in Crl.M.P.No.10301/2021
dated 05.10.2021)in
Crl Op 15781/2018

.Vs.

- 1.The Superintendent of Police,
Dharmapuri District,
Dharmapuri.
- 2.The Inspector of Police,
District Crime Branch,
Dharmapuri District.
- 3.Bar Council of Tamil Nadu and Puducherry,
Chennai - 104.
- 4.Nagarajan
S/o.Narayanan
- 5.Rajendiran
S/o.Rajasekaran
- 6.Panneerselvam
S/o.Rajasekaran
- 7.P.V.Ravi
- 8.P.K.Muthusamy
- 9.C.Murali
- 10.K.Chandrasekaran
- 11.A.Ravi



12.V.Selvanarayanan

13.K.Rajaram

14.T.Arul

[R3 suo motu impleaded as per order
dated 01.03.2019 in crl op 15781 of 2018
R4 to R14 impleaded as per order in
Crl.M.P.No.5127/2019 in
Crl Op 15781 of 2018 dated 10.04.2019]

...Respondents

Criminal Original Petition filed u/s.482 of the Code of Criminal Procedure praying to transfer the investigation in Crime No.1 of 2018 on the file of the second respondent to CBI or CB-CID or any other appropriate authority.

For Petitioner : Mr.A.Ilaya Perumal

For Respondents : Mr.Hasan Mohamed Jinnah
Public Prosecutor assisted by
Mr.R.Muniyapparaj, APP[R1 and R2]
Mr.C.K.Chandrasekar [R3]
Mr.R.Rajaramani [R4]
Mr.V.Raghavachari [R5&R6]
Mr.Arun Anbumani [R7]
Mr.N.Manokaran [R8]
Mr.C.Palanisamy [R9]
Mr.D.Devendran [R10]
Mr.J.Prakasam[R11&12]

ORDER

[Order of the Court was made by P.N.PRAKASH, J]

This petition has been filed seeking transfer of investigation in Crime No.1 of 2018 on the file of the second respondent either to CBI or CB-CID or any other appropriate authority.

2. The minimum facts that are required for deciding this petition are as under:

One K.S.Jagannathan had some lands. One Nagaraj [A1], a local politician, entered into a loan agreement dated 05.04.2004 with one Rajendran [A2], under which, Nagaraj [A1] made it appear as if he has received a loan around Rs.4,00,000/- for which, he has given the above said property of K.S.Jagannathan as security. The loan agreement dated 05.04.2004 contained an



arbitration clause. On a contrived premise that a dispute has arisen between Nagaraj and Rajendran, a collusive arbitration proceedings were initiated in conspiracy with some advocates and an award was passed on 31.10.2014 in a fake arbitration proceedings viz., AR.O.P.No.36 of 2014 in respect of K.S.Jagannathan's land directing Nagaraj to execute a sale deed in favour of Rajendran. On coming to know of this, K.S.Jagannathan approached the police and lodged a police complaint, based on which, a case in Dharmapuri DCB Crime No.1 of 2018 was registered. K.S.Jagannathan also found that Nagaraj and Rajendran were not alone in the adventure and that they were actively assisted by three advocates viz., Rajaram, P.V.Ravi and P.K.Muthusamy and therefore, K.S.Jagannathan lodged complaints against these three advocates in the Bar Council. The Bar Council of Tamil Nadu, by order dated 03.09.2019, suspended Rajaram, P.V.Ravi and P.K.Muthusamy from practising pending disposal of the disciplinary proceedings against each one of them. The disciplinary proceedings as against (i) Rajaram is DCC No.74/2019, (ii) P.V.Ravi is DCC No.375/2018 and (iii) P.K.Muthusamy is DCC No.73/2019.

3. Apprehending that since the accused in DCB Crime No.1 of 2018 are a politician and practising advocates, K.S.Jagannathan filed the present petition seeking transfer of investigation in DCB Crime No.1 of 2018 on the file of the second respondent either to CBI or CB-CID. K.S.Jagannathan also filed certain writ petitions for taking proper disciplinary action against the advocates involved in the offence. By the order of the Hon'ble Chief Justice, all petitions relating to the aforesaid matter, were directed to be posted before the Division Bench in charge of criminal roster and Bar Council matters. Under such circumstances, this petition is before us.

4. During the pendency of this petition, K.S.Jagannathan died on 04.10.2020 and on the orders of this Court, his son S.J.Viswanathan has been substituted as the petitioner vide order dated 05.10.2021 passed in CrI.M.P.No.10301/2021.

5. During the course of these proceedings, the District Crime Branch completed the investigation in DCB Crime No.1 of 2018 and brought the matter to the notice of this Court. This Court perused the CD files and other documents and was satisfied that there is no necessity to transfer the investigation either to the CBI or CBCID. The District Crime Branch has also filed the final report (charge sheet) in DCB Crime No.1 of 2018 for the offences u/s.25(1B)(a) of the Arms Act, 1959 and 120-B, 170, 197, 198, 199, 200, 34, 419, 420, 423, 463, 465, 466, 468, 471 and 484 IPC before the Judicial Magistrate II, Dharmapuri, on 06.01.2022, which has been taken on file as C.C.No.22 of 2022 on 07.02.2022. Most of the accused in C.C.No.22 of 2022, are



respondents in this petition. Summons have not been served in C.C.No.22 of 2022 on any of the accused. The learned Judicial Magistrate II, Dharmapuri, has only taken cognizance of the offences mentioned in the final report (charge sheet) in C.C.No.22 of 2022.

6. Today, Mr.A.T.Ramachandran, Deputy Superintendent of Police, DCB, Dharmapuri [Mobile No.94431 03819] and Ms.K.Nirmala, Inspector of Police, DCB, Dharmapuri [Mobile No.94981 69302] are present.

7. Learned counsel for the petitioner submitted that since the accused are advocates and one of the accused is a ruling party local politician [Nagaraj - A1], the de facto complainant will not get a fair trial, if the trial is conducted in the Court where these accused/advocates are practising.

8. Mr.N.Manokaran and Mr.Arun Anbumani, who appear for some of the accused/advocates, fairly submitted that they have absolutely no objection, if the case is transferred to the neighbouring district.

9. This Court gave its anxious consideration to the aforesaid submissions.

10. Though the prayer in the main petition is for transfer of investigation in DCB Crime No.1 of 2018 either to CBI or CBCID, this Court, u/s.407 r/w 482 Cr.P.C., has the power to mould the relief in a given situation. There seems to be much force in the apprehension of the de facto complainant that there will not be a fair trial in the Court of Judicial Magistrate II, Dharmapuri, where these advocates are themselves practising. That apart, the accused/advocates will be embarrassed to stand as accused in the Court where they are practising. At the same time, the case cannot be transferred to a far away place from the district as that would cause difficulty in taking the witnesses both of the prosecution and the defence for examination. We are aware that Krishnagiri district has been carved out from Dharmapuri district and it will in the interests of justice, if the case is transferred from Dharmapuri district to the adjoining Krishnagiri district.

11. Accordingly, we, in exercise of powers u/s.407 r/w 482 Cr.P.C., direct transfer of C.C.No.22 of 2022 on the file of Judicial Magistrate II, Dharmapuri, to the file of Chief Judicial Magistrate, Krishnagiri, who shall proceed with the case in accordance with law. The entire records in C.C.No.22 of 2022 shall be transmitted from the Court of Judicial Magistrate II, Dharmapuri, along with material objects, if any, to the Court of Chief Judicial Magistrate, Krishnagiri, within a period



of four weeks from the date of receipt of a copy of this order.

12. With the above direction, this Criminal Original Petition is disposed of .

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Following the administrative order of the Hon'ble Chief Justice, all petitions pertaining to this case shall be posted by the Registry only before the Division Bench in charge of criminal roster.

Sd/-
Assistant Registrar

// True Copy //

Sub Assistant Registrar

gm

To

- 1.The Judicial Magistrate II, Dharmapuri.
- 2.The Chief Judicial Magistrate, Krishnagiri.
- 3.The Superintendent of Police,
Dharmapuri District, Dharmapuri.
- 4.The Inspector of Police,
District Crime Branch, Dharmapuri District.
- 5.The Chairman,
The Bar Council of Tamil Nadu & Puducherry,
High Court Campus, Chennai - 104.
- 6.The Secretary,
The Bar Council of Tamil Nadu,
High Court Campus, Chennai - 104.
- 7.The Disciplinary Committee VI,
The Bar Council of Tamil Nadu,
High Court Campus, Chennai - 104.
- 8.The Public Prosecutor,
High Court, Madras.

Copy to

- 1.The Deputy Registrar (Judicial),
High Court,
Madras.



2.The Deputy Registrar
Criminal SectionsHigh Court,
Madras.

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+1cc to Mr.N.Manokaran, Advocate, Sr.No.12935
+2cc to Mr.A.Ilayaperumal, Advocate, Sr.No.12684
+1cc to Mr.J.Prakasam, Advocate, Sr.No.12738
+1cc to Mr.S.Vinodha, Advocate, Sr.No.13535

Crl.O.P.No.15781 of 2018

SRA (CO)
RN (28/03/2022)