



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Cr1.O.P.No.25033 of 2021

N.Sethuraman

... Petitioner

Versus

1. The Inspector of Police,
District Crime Branch,
The Nilgiris.
2. The Superintendent of Police,
The Nilgiris.
3. The Inspector-General of Police,
Western Range, Race Course,
Coimbatore.

4. Senthil Kumar

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the transfer of investigation in FIR No.7/2017 registered on the file of the District Crime Branch, Nilgiris before a different investigation officer/team.

For Petitioner : Mr.G.Rajagopalan
Senior Counsel
For M/S.G.R.Associates

For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed to direct the transfer of investigation in FIR.No.07 of 2017 registered on the file of the District Crime Branch, Nilgiris before a different investigation officer/team.



2.The contention of the petitioner is that no proper investigation has been conducted in the case, despite the petitioner is in the stage of providing necessary information and documents as and when called for. The 1st respondent, District Crime Branch, Nilgiris had failed to conduct any proper investigation. To the shock of the petitioner on 29.04.2019, RCS Notice has been served to the petitioner informing that the case has been closed as Mistake of Fact.

3.He further submits that the petitioner had lodged a complaint on 27.11.2017 against the accused viz., one Ravi Kumar, S/o.Subramanian, for offence under Section 408 IPC, for misappropriating the petitioner's company funds to a huge sum of Rs.58,46,411/-. The petitioner had provided the bank transactions and the relevant records to show how the misappropriation has been done. In the meanwhile, one S.Ravikumar had filed a quash application in Crl.O.P.No.28762 of 2017 and the petitioner herein had filed his objection. Despite the same, the 1st respondent/Inspector of Police, District Crime Branch, Nilgiris had closed the case as Mistake of Fact on 31.12.2018. Recording the reason this Court by order dated 04.08.2021 had closed the above said Crl.O.P.No.28762 of 2017. Further giving a reason that the cause of action had taken place in African countries viz., Zambia. Hence the same has been closed and a part of cause of action aroused here. Hence, the respondents police very much had got a right and authority to conduct investigation and this fact glossed over and not considered. Putting all these facts the petitioner had already filed a protest petition to substantiate the protest petition. He needs the original documents, which have already been produced before the respondent police. The petitioner had already filed a protest petition, which is pending.

4.The learned Additional Public Prosecutor, submits that the petitioner had lodged a complaint and a case in Crime No.7 of 2017 had been registered by the District Crime Branch, Nilgiris, Ooty. Thereafter, the investigation has been conducted, witnesses have been examined, statements were recorded and several documents collected. On perusal of the documents, it is seen that during investigation, it was found that already for the same offence a case has been registered and investigated in Lusaka African country finding that already investigation commenced for the similar offence and the case is closed

5.On perusal of the complaint, the case has been closed as Further Action Dropped. Notice has been served to the petitioner and the petitioner had filed a protest petition, it is for the petitioner to make out the case by producing the relevant documents and materials. Thereafter on the orders of the concerned court, appropriate action would be taken.



6.This Court finds that now the case has been closed as Further Action Dropped on 25.09.2019, aggrieved against the same, the petitioner had already filed a protest petition. In view of the same, the petitioner is directed to put forth all his contentions before the concerned Judicial Magistrate Court, Kothagiri. Thereafter the learned Judicial Magistrate, Kothagiri, is directed to consider the protest petition along with the documents filed by the petitionr and pass appropriate orders on merits.

6.With the above directions, the Criminal Original Petition is disposed of.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

ah/sp

To

1. The Judicial Magistrate,
Kothagiri.
2. The Inspector of Police,
District Crime Branch,
The Nilgiris.
3. The Superintendent of Police,
The Nilgiris.
4. The Inspector-General of Police,
Western Range, Race Course,
Coimbatore.
5. The Public Prosecutor,
High Court, Madras.

+1cc to M/S.G.R.Associates, Advocate, S.R.No.2550

Cr1.O.P.No.25033 of 2021

PL[co]
NSK 27/01/2022