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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 03.02.2022

DATED : 22.02.2022

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.NOS.18850, 15774,
16644 & 18891 OF 2021
& CRL.MP.NOS.10353, 8593, 9081

Cr1.O.P.No.18850 of 2021

M.Elayavanan

... Petitioner/
Accused No.2

Vs.

1. The Commissioner of Police,
The Greater Chennai,
Vepery, Chennai - 600 008.
2. The Deputy Commissioner of Police,
Washermenpet,
Chennai.
3. The Inspector of Police,
N2 Kasimedu Police Station,
Crime No.651 of 2021,
Chennai - 13.
4. The Addl. Director General of Police,
Crime Branch CID,
Chennai.

... Respondents/
Complainants

Prayer :

Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code to withdraw the investigation in Crime No.651 of 2021 from the third respondent and to transfer the same to the fourth respondent for fair and impartial investigation in Crime No.651 of 2021.



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For Petitioner : Mr.N.Manoharan
For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor

Cr1.O.P.No.15774 of 2021

D.Napoleon ... Petitioner/
Accused-2

Vs.

1. The Inspector of Police,
N2 Kasimedu Police Station,
Chennai.
2. The Deputy Commissioner of Police,
Washermenpet,
Chennai.
3. The State rep. by the DGP [Crime],
CBCID, Egmore,
Chennai.

... Respondents

Prayer :

Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code to withdraw and transfer the investigation in Crime No.651 of 2021 to the third respondent from the file of the first respondent police.

For Petitioner : Mr.K.S.Dinakaran
Senior Counsel
for Mr.Balaji Sankara Moorthy
For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor

Cr1.O.P.No.16644 of 2021

Mullai Vendhan ... Petitioner/
Accused(Rank not known)



WEB COPY

Vs.

1. The Commissioner of Police,
Greater Chennai,
Vepery, Chennai.

2. The Inspector of Police,
N2 Kasimedu Police Station,
Chennai - 13.

... Respondents/
Complainants

Prayer :

Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code to withdraw the case in Crime No.651 of 2021 pending on the file of the second respondent and transfer the same to some other competent investigating agency/officer and also to be monitored by an officer not below the rank of Deputy Commissioner of Police.

For Petitioner : Mr.N.Mohideen Basha

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

Cr1.O.P.No.18891 of 2021

J.Eswaran

... Petitioner

Vs.

State rep. by

1. The Director General of Police,
Tamil Nadu.

2. Deputy Commissioner of Police,
Washermenpet Range,
Chennai.

3. The Inspector of Police,
N2 Kasimedu Police Station,
Chennai.

... Respondents/
Complainants



Prayer : Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code to transfer the investigation in Crime No.651 of 2021 from the file of the third respondent to CBI, Chennai.

For Petitioner : Mr.R.C.Paul Kanagaraj

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

COMMON ORDER

These Criminal Original Petitions, filed by the accused in Crime No.651 of 2021, for the offence under Sections 8-C and 20 (b)(ii)(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 [in short 'NDPS Act'], seeking transfer of investigation.

2.The gist of the complaint is that on 20.07.2021, the Sub-Inspector of Police attached to N2 Kasimedu Police Station, on receiving information that near the Indira Nagar Bridge, five persons were having white gunny bag and it contain Narcotics. Thereafter, on recording the same in the Station General Diary, a team of Police personnel had gone there. On seeing the Police, five persons ran away from there, one of them jumped from the bridge and sustained injuries. The gunny bag which was found there contained ganja. Thereafter, the defacto complainant left the gunny bag with one Police Constable, gone down the bridge, found a person injured and wailing under pain. When he was enquired, he disclosed his name as Napoleon from Tondiarpet. The accused admitted that he was dealing with ganja, along with his associates, namely, Sarathkumar, Elayavanan, Mullai Vendan and Eswar, they planned to pack the ganja in small packets and to deal with it. On seeing the Police, the others escaped. Thereafter, the injured was taken to the Stanley Hospital with medical memo, given treatment as in-patient. On examination, it was found white gunny bag contained 11 packets of ganja each weighing 2 kgs, totally weighing 22 kgs and thereafter, following the procedures, contraband seized the above case registered.



3. The contention of the learned senior counsel for the petitioner in Crl.O.P.No.15774 of 2021 is that the petitioner is a married man having two children, he was residing in Kovalam, Chengalpet District for the past two years. On 19.07.2021, at about 5.00 p.m., a special team of police from Washermenpet Range came in civil dress, trespassed into the petitioner's house, forcibly taken him in a private car. The petitioner's wife was informed that they are from the special team under the supervision of the Deputy Commissioner of Police, Washermenpet and the petitioner was taken for enquiry. Thereafter, the petitioner's wife along with her two children searched, visited New Washermenpet Police Station, Thiruvotitiyur Police Station, Royapuram Police Station and Kasimedu Police Station to enquire about the petitioner's whereabouts but she was unable to find him. On the next day, i.e. on 20.07.2021, wife of petitioner's friend [Sarathkumar] called the petitioner's wife through mobile and informed that on 19.07.2021 at about 1.00 p.m., the same Police team entered their house, attacked Sarathkumar and took him along with his friend Vinoth. Both Sarathkumar and Vinoth were attacked. The policemen obtained signatures from the wife of Sarathkumar and Vinoth in white blank papers and threatened them that if they utter anything, they will also be put in jail. The petitioner's wife visited the office of Deputy Commissioner of Police to know about her husband whereabouts, but there was no response. Hence, the petitioner's wife lodged a complaint with the Joint Commissioner of Police, North Chennai and also to the Police control room through SMS, but everything was in vain. Later, the petitioner's wife came to know that the petitioner was admitted in Stanley Hospital. The petitioner's wife rushed to the hospital wherein the petitioner informed his wife about the happenings. The petitioner submitted that the Police team took him along with his friend Sarathkumar to Red Hills, kept them in a locked room. On the next day morning, the Policemen took the petitioner and Sarathkumar to Tondiarpet in a car, upon reaching Tondiarpet blindfolded both of them, made to get down from the car and sit on the ground and the Policemen threatened to kill them and project it as an encounter. The petitioner was attacked with iron rod on his right leg, which resulted in fracture. The petitioner's wife lodged a complaint regarding the same in the Chennai City Police website. Later the petitioner was taken to N1 Royapuram Police Station and subsequently, a case was registered in Crime No.651 of 2021 on the file of the N2 Kasimedu Police Station. When the petitioner was produced for remand, he informed the learned Magistrate that he was abducted from his Kovalam residence on 19.07.2021 and thereafter, kept in illegal custody and also fractured his leg. The petitioner submits that the Deputy Commissioner of Police, Washermenpet, had formed a special team and foisting false cases against the persons who had previous history, now reformed and living peacefully, to detain them and put them behind bars. It



is further understood that the Deputy Commissioner of Police is adopting the same method with the other persons, in view of the same, continuation of investigation by the Inspector of Police, N2 Kasimedu Police Station, who is subordinate to the Deputy Commissioner of Police, Washermenpet, would be in a coloured manner falsely implicating the petitioner and others in this case. Further, the petitioner has contemporary materials to show that he was falsely implicated in this case. Hence, he sought for transfer of investigation to CBCID Police.

4.The petitioner in Crl.O.P.No.18850 of 2021 is one Elayavanan, accused in Crime No.651 of 2021. The contention of the petitioner is that the petitioner completed B.E. [Computer Science] during the year 2010-2014 from Kings Engineering College, thereafter, the petitioner underwent various courses to improve his skills, joined CMC Maritime Academy, Chennai, wherein he took up Elementary First Aid, Fire Prevention and Fire Fighting, Personal Survival Techniques and Personal Safety and Social Responsibilities. Further, he took training at SETRAC College of Offshore Training, Navi Mumbai for Helicopter Under Water Escape. He took Pre-sea training Course, got certificate from Board of Examination from Seafarers Trust and underwent Basic Training in Oil and Chemical Tanker Cargo Operations, thus the petitioner got employment as Seamen. The petitioner is in the prime period of his career and at that time, he is falsely implicated in the above case. The petitioner has no nexus with the other accused. On 20.07.2021, the petitioner was at Periyapalayam Temple with his family members, to prove the same, he produced the photographs. The Inspector of Police, N2 Kasimedu Police Station, on the direction of the Deputy Commissioner of Police, Washermenpet, registered a false case implicating the petitioner in a heinous crime. The petitioner apprehends that he was targeted by vested interest group. The petitioner submits that the way in which the case registered clearly shows that the petitioner cannot expect fair and impartial investigation. Further, to prove that the petitioner was not present in the place of occurrence, the petitioner had impeccable sterling quality materials in the form of electronic records which are to be considered. On the other hand, the Deputy Commissioner of Police for obvious reasons implicating the petitioner and others in this case and further causing severe physical harm. In support of his contention, the petitioner produced the educational credentials as well as the photographs taken at the Temple.

5.The petitioner in Crl.O.P.No.16644 of 2021 is one Mullai Vendhan. The grievances of the petitioner is that the petitioner is a friend of one Nithish Kumar, Son of D.Suresh



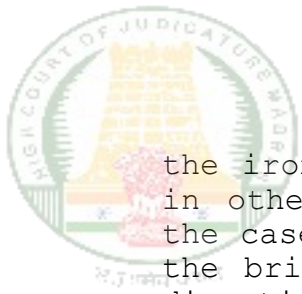
Kumar, whose brother is Sailesh Kumar who was taken under illegal custody, false case registered against him and his leg was fractured by using a iron rod. In this connection, the petitioner herein helped the victim in moving petition before the Human Rights Commission and also by preferring petition under the Right to Information Act. In revenge for the same, the petitioner is falsely implicated in this case. In the remand order of the injured accused, the Remanding Magistrate recorded the injuries sustained and the tortures inflicted. The petitioner is a Law student, the petitioner helped Sailesh Kumar's family in preparing petitions against police officials and making representations to various authorities. The accused in this case as well as in the case of Sailesh Kumar made complaint before the Remanding Magistrate for the high handedness and for inflicting injuries on them. It is further submitted that the call details of the concerned Police Personnel and the CCTV footage of H5 New Washermenpet Police Station would clearly prove that the petitioner is falsely implicated in this case. The petitioner hails from a very poor family, his father is an Auto Driver, his mother is a house wife, the petitioner is thriving hard to come up in life, joined the Law course, fighting against the police atrocities for which the petitioner is falsely implicated. The case projected by the prosecution is contrary to the truth. From the paper publication in Dinamalar and Tamil Murasu dated 21.07.2021, it is seen that in this case the said Napoleon/A1 was taken in custody from his residence at Kovalam, on the contrary, it is projected as if he was found along with other accused, carrying Narcotics near the Indira Nagar Bridge. Hence, he sought for transfer of investigation since the Deputy Commissioner of Police is hellbent to implicate the petitioner and to detain him in prison endlessly. In support of his contention, the petitioner filed typed set of papers containing remand order, newspaper publication and the petitions prepared by the petitioner to the mother of Sailesh Kumar against the police personnels.

6.The petitioner in CrI.O.P.No.18891 of 2021 is one Eswaran. The contention of the petitioner is that he was falsely implicated in this case on the confession of the arrested accused, except for referring the petitioner as Easwaran of Royapuram, there is no other overtact against the petitioner. The petitioner has got no bad antecedents, neither involved in IPC nor in NDPS cases. The petitioner is the proprietor of J.J.R. Trans, having office at 11, NRT Service Road, Royapuram, he is the vice president of Mercantile Trailer Owners Association, in the said Association, there are more than 200 individual owners who are plying the trailers in the Harbour. The competitive Association made false allegations and had



successfully implicated the petitioner in the above case with help of the Deputy Commissioner of Police. The petitioner has no connection with the other accused in this case. At the relevant point of time, the petitioner was in his office with the company of Advocate Mr.Thulasi Manikandan, his younger brother Dinesh, one Mr.Muthalagan, President of Mercantile Trailer Owners Association and one Mr.Senthil of Royapuram. The CCTV recordings recorded in his office with date and time would show that the petitioner was very much available in the office at the time of the alleged occurrence. On 26.07.2021, the petitioner received a phone call from one Vinoth informing that he was arrayed as accused in the above case and further, he was threatened. Thereafter, the petitioner through Mr.Thulasi Manikandan, Advocate approached his senior Mr.R.C.Paul Kanakaraj, Advocate and met Director General of Police [DGP] and gave a complaint about the false implication of the petitioner. The DGP directed the petitioner to meet Mr.Sivaprasad, Deputy Commissioner, Washermenpet range and to give explanation. The petitioner along with the Advocate met the Deputy Commissioner of Police and the Deputy Commissioner informed that he was aware that the petitioner was not involved in the case and further he would find out the reason for his implication and allowed the petitioner to stay at his home. From 28.07.2021, the petitioner stayed in his house, carrying on with his regular activities including attending political party meeting and moving freely. This being so, on 18.09.2021, the petitioner was called and he was enquired with regard to the complaint given to the DGP. The petitioner narrated the same and thereafter, four policemen came to the petitioner's office, picked him up, shown arrest and produced for remand. During remand, the petitioner informed to the Remanding Magistrate about his false implication. The petitioner submits that the Deputy Commissioner of Police collected particulars in his Police District and made it as a habit to implicate false case against the notable persons whether they have criminal antecedents or still active is not considered. The reformation and leading normal like is not allowed, the petitioner and others were falsely implicated and forced them to continue with their past records. In support of his contention, the petitioner filed typed set of papers containing photographs taken at his office and the petition given to the Director General of Police.

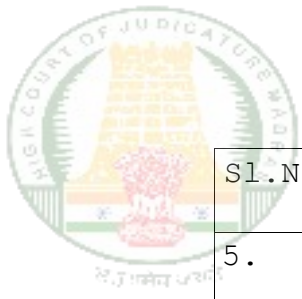
7.The sum and substance of all the petitioners is that they were falsely implicated in the above case by the Deputy Commissioner of Police, Washermenpet Range. None of the petitioners were available in the place of occurrence during the relevant point of time, they were present at various places, for which they got contemporary documents which were not considered. Further, injuries are inflicted by the police personnel using



the iron rod. The same method is followed to the other accused in other criminal cases in the Washermenpet Range, but in all the cases, it is projected as though the injured had fallen from the bridge or other places which is against the guidelines and directions of the Apex Court. No law in the land gives any authority to the police personnel to inflict injuries on the suspect. The Deputy Commissioner of Police is a Senior Officer in the District and hence, no truthful and proper investigation is possible. In view of the same, all the petitioners sought for transfer of investigation.

8. The learned Additional Public Prosecutor raised objections to the contentions of the petitioner in CrI.O.P.No.15774 of 2021 by filing a counter. It is stated that the entire allegations made in the petition as false and the petitioner has purposely concocted a cock and bull story in the petition without any basis. It is further stated that on receiving reliable information by the Sub-Inspector of Police, N2 Kasimedu Police Station, that in the over bridge near Indra Nagar Pallam, five suspicious persons were standing with white coloured gunny bag, the Sub-Inspector of Police along with a team rushed to the place and identified five persons standing with white gunny bag. On seeing the Police personnels, they ran away and one of the accused jumped off the overbridge but others fled away. Immediately, the Police team went down from the over bridge where the petitioner was found injured. It is further stated that the petitioner has given confession statement admitting he was a ganja seller and was present in the place of occurrence along with his associates. Based on his confession statement, the petitioner and his associates were arrested. It is further stated that the petitioner is a history sheeter and the list of previous cases in which the petitioner was involved is as under:

Sl.No.	Police Station, Crime Number and Section of Law	Stage of the Case
1.	N3 PS Cr.No.98/05 u/s. 147, 148, 302, 34 ,120(b) of IPC	Acquittal
2.	C1 PS Cr.No.625/06 u/s. 341, 302, 353, 506(ii) of IPC	Acquittal
3.	H4 PS Cr.No.465/10 u/s. 147, 148, 323, 384, 307, 506(ii) of IPC	Acquittal
4.	H5 PS Cr.No.492/10 u/s. 147, 148, 149, 323, 427, 384, 506(ii) of IPC	Pending Trial



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Sl.No.	Police Station, Crime Number and Section of Law	Stage of the Case
5.	H3 PS Cr.No.619/10 u/s. 147, 148, 149, 323, 427, 384, 506(ii) of IPC	Acquittal
6.	N1 PS Cr.No.1153/12 u/s. 147, 148, 302, 506(ii) of IPC	Acquittal
7.	H5 PS Cr.No.931/13 u/s. 341, 384, 506(ii) of IPC	Under Investigation
8.	N2 PS Cr.No.1508/14 u/s. 341, 294(b), 323, 336, 397, 427, 506(ii) of IPC	Acquittal
9.	C2 PS Cr.No.396/16 u/s. 341, 294(b), 323, 307, 506(ii) of IPC	Under Investigation
10.	H5 PS Cr.No.853/16 u/s. 341, 294(b), 427, 307, 506(ii) of IPC	Under Investigation
11.	N2 PS Cr.No.250/17 u/s. 341, 294(b), 337, 336, 427, 506(ii) of IPC	Under Investigation
12.	H3 PS Cr.No.665/18 u/s. 341, 294(b), 384, 506(ii) of IPC	Under Investigation
13.	H4 PS Cr.No.665/18 u/s. 341, 294(b), 384, 506(ii) of IPC	Under Investigation
14.	H6 PS Cr.No.803/18 u/s. 341, 294(b), 323, 336, 427, 392, 397, 506(ii) of IPC	Under Investigation
15.	N2 PS Cr.No.698/18 u/s. 294(b), 323, 307, 506(ii) of IPC	Under Investigation
16.	N1 PS Cr.No.1389/2021 u/s. 341, 294(b), 384, 506(ii) of IPC	Under Investigation

Further it is stated that police personnel did their job in accordance with law and procedure and nothing in violation thereof. The petitioner is a history sheeter and regularly indulged in the business of possessing and selling ganja packets in North Madras ruining the lives of younger generation and the general public.

9. In the counter filed in Crl.O.P.No.18850 of 2021, it is stated that based on the confession statement given by the accused Napoleon, the petitioner was arrested. It is further stated that even though the petitioner had shown the photographs taken at Periyapalayam Temple on 20.07.2021 as evidence, the



time during which the photographs were taken was not mentioned. Further, the temple is not very far away from the place of occurrence and the petitioner could have easily travelled the distance within 1½ hours. It is further stated that there is no personal involvement of the Deputy Commissioner of Police in this case and the investigation is being done in the manner known to law.

10. In the counter filed in CrI.O.P.No.16644 of 2021, it is stated that the allegation raised by the petitioner is totally false. There is no enmity or vengeance between the petitioner and the team of police personnel under the Deputy Commissioner of Police as alleged by the petitioner. It is further submitted that the petitioner himself admits that he is a friend of brother of the accused, who involved in Crime No.1672 of 2021 on the file of the H5 New Washermenpet Police Station and based on the confession of Al Napoleon, the petitioner was included in this case. It is stated that in order to escape from the clutches of law, the petitioner raised allegations against the Investigating Officer and his team.

11. In the counter filed in CrI.O.P.No.18891 of 2021, it is stated that the petitioner's claim that he was sitting with an Advocate in his office at the time of occurrence cannot be accepted since most of the CCTV cameras were not showing correct timings and he could have come to his office and had discussion after he escaped from the scene of occurrence. Further, it is stated that the petitioner himself had stated that he received a call from one Vinoth on 26.07.2021, whereas the date of occurrence of crime was on 20.07.2021 in which the petitioner was arrayed as an accused. It is further stated that the petitioner himself had stated that he started attending his office regularly from 28.07.2021, but he had not stated any reasons for his absence from 21.07.2021 to 25.07.2021.

12. The learned Additional Public Prosecutor reiterated the averments stated in the counter affidavits and submitted that the petitioners grievances primarily appears to be that under the direction of the then Deputy Commissioner of Police, Washermenpet, the petitioners were falsely implicated in this case for one reason or the other, but the said Deputy Commissioner of Police got transferred and in view of the same, the apprehension of the petitioners are no more exists. Hence, he sought for dismissal of the criminal original petitions.

13. Considering the submissions made and on perusal of the materials, it is seen that the main grievance of the petitioners is that they had apprehension that no proper investigation will be conducted. Since the case was foisted against them on the direction of the Deputy Commissioner of Police, Washermenpet,



now it is seen that the Deputy Commissioner of Police got transferred and the apprehension no more exists. In view of the complaint made against the Police personnel, this Court feels it appropriate that the investigation to be conducted by the concerned Police Officer under the direct supervision of the Joint Commissioner of Police, North Chennai.

14. With the above directions, these Criminal Original Petitions stand disposed of. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

cse

To

1. The Commissioner of Police,
Greater Chennai,
Vepery, Chennai - 600 008.
2. The Deputy Commissioner of Police,
Washermenpet, Chennai.
3. The Inspector of Police,
N2 Kasimedu Police Station, Chennai - 13.
4. The Addl. Director General of Police,
Crime Branch CID, Chennai.
5. The DGP [Crime],
CBCID, Egmore, Chennai.
6. The Director General of Police,
Mylapore, Chennai-4, Tamil Nadu.
7. The Joint Commissioner,
North Chennai.



8. The Public Prosecutor,
High Court, Madras.

Copy To

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The Section Officer,
Criminal Section, High Court,
Madras.

+lcc to Mr.N.Manoharan, Advocate, S.R.No.11728

+lcc to Mr.M.Ganesan, Advocate, S.R.No.12059

Crl.O.P.Nos.18850, 15774,
16644 & 18891 of 2021

SSN(CO)
PM/09/03/2022