



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 06.01.2022

C O R A M

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CrI. O.P. No.13115 of 2017
and CrI.M.P.No.8545 of 2017

V.Kasinatha bharathi

...Petitioner

Versus

1.The Director General of Police,
Tamilnadu Police Head Quarters,
Kamarajar Salai, Mylapore,
Chennai-600 004

2.The Inspector General of Police,
C.B.C.I.D,
C.B.C.I.D Head Quarters,
Industrial complex,
Guindy,
Chennai-600 032.

3.The Inspector of Police,
C.B.C.I.D,
Thiruvarur.

...Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to direct the respondents 1 and 2 to re-investigate in Crime No.105 of 2010 on the file of 3rd respondent now pending on the file of the Principal Sessions Judge, Cuddalore in S.C.No.42 of 2015 through some other superior officer in the level of Superintendent of Police or any other superior officer as may be found fit and suitable in the opinion of this Court.

For Petitioner : Mr.S.Conscious Ilango
For Respondents : Mr.S.Vinoth Kumar
Government Advocate(CrI.side)

O R D E R

This Criminal Original Petition has been filed to direct the respondents 1 and 2 to re-investigate the case in Crime No.105 of 2010 on the file of 3rd respondent now pending on the file

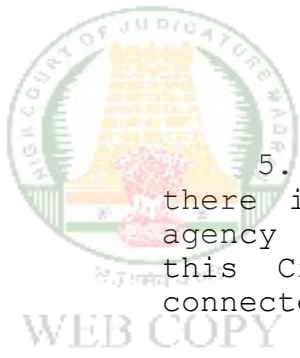


of the Principal Sessions Judge, Cuddalore in S.C.No.42 of 2015 through some other superior officer in the level of Superintendent of Police or any other superior officer.

2. Originally, the investigation has been transferred to C.B.C.I.D, Nagapattinam on the ground that the local Police had not properly investigated the matter. Now, the Inspector of Police, Crime Branch C.I.D has filed the final report.

3. The learned counsel for the petitioner submitted that the grievance of the petitioner is that A1 was left out in the charges by the learned trial Court. Therefore, re-investigation was ordered by this Court vide order dated 01.10.2002. Though various allegations were made by the petitioner, the main grievance appears to be with regard to the non citing of the learned Judicial Magistrate as witnesses who have recorded the statements under Section 164 of Cr.P.C of 10 witnesses who supported the prosecution. He further submitted that the materials had not been seized by the prosecuting agency and other grievance is that though one of the injured was in hospital for 20 days, the injury was shown as simple injury. Therefore, he prays to re-investigate the case in Crime No.105 of 2010

4. At the outset, I am of the view that re-investigation cannot be ordered as a matter of right at the whims and fancies of the parties who were not satisfied with the investigation. Though it is admitted by the learned Government advocate (crl.side) that the statement of the witnesses were recorded by the learned Judicial Magistrate under Section 164 of Cr.P.C implicating A1, it is for the trial Court to take note of the same and examine all the witnesses. From the evidence, if the trial Court finds any involvement of A1, it is well within the right of the Trial Court to include the person implicated by the witnesses as an additional accused by invoking provisions under Section 319 of Cr.P.C. Merely because the wooden logs and other materials have not been seized, the same will not have serious consequences in deciding charges. In such view of the matter, this Court of the view that as per the submissions of the learned counsel for the petitioner, there are statements under Section 164 of Cr.P.C have been recorded. Further, the trial Court is directed to ensure that those statements are also brought on record from the learned Judicial Magistrate Court and all the witnesses were examined. If the trial Court finds that any evidence discloses the involvement of any other accused who has not been arrayed as an accused in the final report, the trial Court can proceed as per law under Section 319 of Cr.P.C.



5. With the above directions, this Court is of the view that there is no need to entrust the investigation to some other agency or to issue direction for investigation. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS VIII)

/true copy/

Sub Assistant Registrar

msv/nr
To

1. The Principal Sessions Judge, Cuddalore

2. The Director General of Police,
Tamilnadu Police Head Quarters,
Kamarajar salai, Mylapore,
Chennai-600 004

3. The Inspector General of Police,
C.B.C.I.D,
C.B.C.I.D Head Quarters,
Industrial complex,
Guindy,
Chennai-600 032.

4. The Inspector of Police,
C.B.C.I.D,
Thiruvavur.

5. The Public Prosecutor
High Court, Madras.

Crl. O.P. No.13115 of 2017
and Crl.M.P.No.8545 of 2017

PMK(CO)
KM(01/02/2022)