



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.04.2022

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.(MD) No.2388 of 2022

Senthilrajan

...Petitioner

Vs.

1. The Superintendent of Police,
Tirunelveli District,
Tirunelveli.
2. The Inspector of Police,
Uuvari Police Station,
Tirunelveli District.
3. The Deputy Superintendent of Police,
CBCID,
Tirunelveli District.

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying this Court to transfer the investigation in Crime No. 08 of 2022 pending on the file of 2nd respondent to the file of the 3rd respondent with a direction to investigate into the matter and file charge sheet in accordance with law.

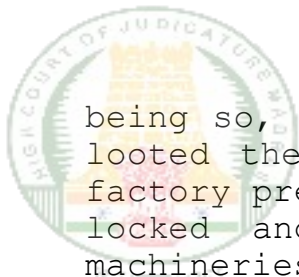
For Petitioner : Mr.Ajmal Khan
Senior Counsel
For M/s.Ajmal Associates

For R1 to R3 : Mr.B.Thanga Aravindh
Government Advocate(Criminal Side)

ORDER

The criminal original petition has been filed seeking transfer of investigation in crime No.8 of 2022, pending on the file of the second respondent to the file of the third respondent with a direction to investigate into the matter and file charge sheet.

2.The case of the petitioner is that the petitioner and another are jointly running a partnership firm in the name and style of V.V.Minerals. In order to grab the entire share of the properties, which belonged to V.V.Minerals, the first accused had created a forged partition deed on 31.12.2018 without making any partition or consent from the petitioner. In this regard, the first accused had filed a case before the learned Principal Bench of this Court and the Hon'ble **JUSTICE MRS.VIMALA** was appointed as "Receiver" and two other Advocates were appointed to deal with the property. While



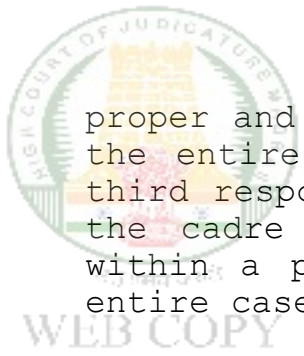
being so, the accused persons entered into the factory premises and looted the entire machineries. Infact, they also found that the factory premises found locked and sealed portion (Earlier which was locked and sealed by the District Collector) was opened and machineries, equipment and other mineral stocks were found missing. When the said factual position was recorded by the petitioner's videographer, at the instance, one Vaikundarajan interrupted the said recording and also abused the videographer with the filthy languages. Subsequently, the video camera worth about Rs.6,50,000/- was forcibly thrown in the floor and the same was busted.

3.On the very same day, the petitioner had lodged a complaint before the second respondent and he was issued CSR No.115 of 2021 and assured to take appropriate action on the complaint against the accused persons. However, the respondents 1 and 2 failed to take any action on the complaint and as such, the petitioner was constrained to file a petition under Section 156(3) of Cr.P.C. Thereafter, the learned Judicial Magistrate, Radhapuram, by order dated 25.10.2021, a direction was issued to the second respondent to register the petitioner's complaint and investigate. Even then, the second respondent failed to register a case after making representation to the higher officials. The second respondent registered the case in crime No.8 of 2022 for the offences under Sections 147, 341, 294(b), 323 and 427 of IPC, that too after a lapse of 75 days from the date of direction issued by the learned Judicial Magistrate, Radhapuram, The accused persons have damaged the properties worth about Rs.6,50,000/-, whereas, the second respondent underestimated the aforesaid value to the tune of Rs.4,50,000/- and also registered a case under Section 427 of IPC but actually, the case had to be registered under Section 3 of Tamil Nadu Property (Prevention of Damage and Loss) Act, 1992. On the averments made in the complaint, it is seen that the offences under Sections 379 and 420 of IPC were purportedly omitted in the FIR.

4.Though this Court directed to file a status report in this matter, the learned Government Advocate (Crl.Side) stated that the second respondent did not come forward to file status report before this Court. However, he has submitted the examination of witnesses so far made and about to complete the investigation.

5.In view of the aforesaid reasons, it is clear that the second respondent is acting against the petitioner and even failed to file any status report before this Court. It shows that the second respondent is simply keeping the FIR in cold storage without any progress. Under these circumstances, if the investigation in Crime No.8 of 2022 continues with the second respondent, the petitioner will not get proper investigation.

6.In view of the above, the entire investigation in Crime No.8 of 2022 is hereby withdrawn from the file of the second respondent and the same is transferred to the file of the third respondent for



proper and fair investigation in crime No.8 of 2022. On receipt of the entire case diary in pursuant to the crime No.8 of 2022, the third respondent is directed to depute the investigation officer in the cadre of Inspector of Police and complete the investigation within a period of twelve weeks from the date of receipt of the entire case diary in crime No.8 of 2022.

7.With the above direction, the criminal original petition is allowed. It is also made clear that the petitioner is at liberty to produce all the material evidence to attract the other offences and after completion of investigation, the investigation officer is at liberty to alter the offence accordingly if any in accordance with law.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1. The Superintendent of Police,
Tirunelveli District,
Tirunelveli.
2. The Inspector of Police,
Uuvari Police Station,
Tirunelveli District.
3. The Deputy Superintendent of Police,
CBCID,
Tirunelveli District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-18102[F] dated 12/04/2022)

CrI.O.P. (MD) No.2388 of 2022
11.04.2022

RD(04.05.2022) 3P 6C