



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 03.01.2022

PRONOUNCED ON: 10.01.2022

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)No.1317 of 2019

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S.Muniyappan : Petitioner
Vs.

1.The Inspector General of Police,
O/o the Inspector General of Police,
South Zone,
Madurai.

2.The Superintendent of Police,
O/o Superintendent of Police,
Dindigul District,
Dindigul.

3.The Deputy Superintendent of Police,
O/o Deputy Superintendent of Police,
Vedasandur,
Dindigul District.

4.The Sub-Inspector of Police,
Eriyodu Police Station,
Dindigul District.

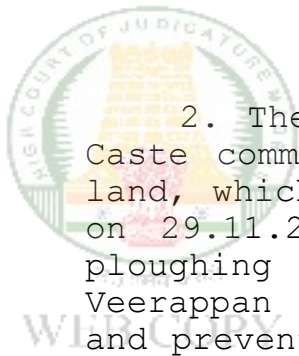
: Respondents

PRAYER : Criminal Original Petition has been filed under Section 482 Cr.P.C, to transfer the investigation in Crime No.376 of 2018, on the file of the third respondent to any other Deputy Superintendent of Police, within the jurisdiction of Dindigul District and consequently directing the second respondent to supervise the investigation and file a final report in accordance with law.

For Petitioner : Mr.D.Shanmugaraja Sethupathi
For Respondents : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor

ORDER

The above Criminal Original Petition has been filed invoking Section 482 Cr.P.C., seeking orders to transfer the investigation in Cr.No.376 of 2018, on the file of the third respondent to any other Deputy Superintendent of Police, within the jurisdiction of the Dindigul District and consequently directing the second respondent to supervise the investigation and to file a final report in accordance with law.

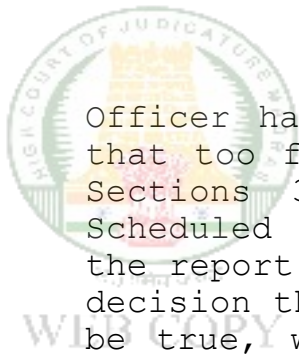


2. The case of the petitioner is that he belongs to Scheduled Caste community, that he has been cultivating Government Poramboke land, which is situated adjacent to the land of one Veerappan, that on 29.11.2018 at about 08.00 a.m., when the petitioner was ploughing up the field with the help of a tractor, the said Veerappan and his family members had objected to plough the field and prevented the petitioner by threatening with dire consequences, that subsequently at about 09.30a.m., when the petitioner went to the village to convey the occurrence happened in the field to the Village Head, the said Veerappan, his brother Ramasamy, his wife Rukmani, Palanichamy and Veerammal had abused him with filthy language using caste name and also assaulted him brutally and that the petitioner sustained fracture on the left side of the spine and was admitted in the Government hospital, Vendasandur.

3. The petitioner's further case is that the Sub-Inspector of Police attached to the Vendasandur police station came to the hospital and recorded his statement and on the basis of the said complaint statement, the case was registered in Cr.No.376 of 2018 against five accused for the alleged offences under Sections 147, 294(b) and 323 I.P.C., and Sections 3(1)(r), 3(1)(s) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Amendment Act 2015 and that the third respondent, who was the Investigating Officer, has not properly investigated the case and has been hand in glove with the accused for extraneous consideration.

4. The learned Counsel for the petitioner would submit that though the petitioner was brutally attacked and caused grievous injury, the third respondent has registered the case only for the offence under Section 323 I.P.C., that the third respondent has deleted four accused out of five accused and proceeded only against the third accused, that though F.I.R., was registered on 01.12.2018, deletion and alteration reports have been filed on the very next day, without conducting any enquiry, that the petitioner's representations to the respondents 2 and 3 and other higher officials were of no avail and that therefore, the petitioner was constrained to approach this Court seeking transfer of the investigation.

5. Admittedly, on the basis of the complaint statement recorded from the petitioner, a petition enquiry was conducted in Petition No.363/2018 and on that basis, F.I.R., came to be registered on 01.12.2018 for the alleged offences under Sections 147, 294(b), 323 I.P.C., and under Sections 3(1)(r), 3(1)(s) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Amendment Act 2015 against 5 accused. It is also not in dispute that the third respondent - Deputy Superintendent of Police, who was the Investigating Officer, has filed a report dated 02.12.2018 deleting four accused, who were named in the F.I.R. and altered the



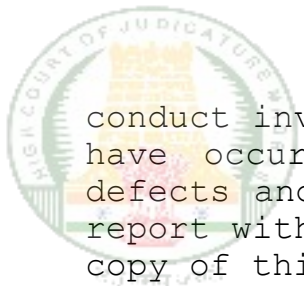
Officer has decided to proceed only against the third accused and that too for the alleged offences under Section 294(b) I.P.C., r/w Sections 3(1)(r), 3(1)(s), 3(1)(z) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Amendment Act 2015. In the report dated 02.12.2018, the Investigating Officer has come to a decision that the first incident alleged in the complaint appears to be true, whereas the second incident alleged to have occurred at 09.30a.m., appears to be false and the complaint has been given in an exaggerated manner.

6. The third respondent has filed a status report on 13.09.2019 and whereunder he has reiterated the same contentions given in the report dated 02.12.2018. It is pertinent to mention that in the said status report, the third respondent in paragraph No.8, has specifically stated that on 09.01.2019, Dr.P.Sirajudheen, Government Hospital, Vendasandur issued wound certificate stating that injured suffered by the petitioner is grievous in nature, that the wound certificate was given as per the opinion of the Doctor of Government Hospital, Dindigul, who treated the petitioner earlier and hence, a request letter has been given to RMO, Government Hospital, Dindigul to clarify the nature of wound.

7. As rightly contended by the learned Counsel for the petitioner, when the status report was signed by the third respondent on 31.08.2018, he has not clarified the nature of the wound sustained by the petitioner and if that be the situation, this Court is at loss to understand as to why the third respondent has filed the report dated 02.12.2018 deleting four accused and altering some of legal provisions hurriedly. As rightly pointed out by the learned Counsel for the petitioner, the petitioner has filed the copies of discharge summary and CT scan report issued by the Government hospital and whereunder it is evident that the petitioner has suffered bone injury.

8. As already pointed out, the petitioner has sought the relief of transferring the investigation to any other Deputy Superintendent of Police within the jurisdiction of Dindigul District. As rightly contended by the learned Additional Public Prosecutor, the Deputy Superintendent of Police against whom the allegations are being made by the petitioner, has already been transferred and is not working in the Dindigul District. He would further submit that another Officer is holding the post of Deputy Superintendent of Police, of that police sub-division.

9. Considering the above facts and circumstances and also taking note of the fact that the Deputy Superintendent of Police against whom allegations are levelled, is not working in the said sub-division and another Officer is holding the post of Deputy Superintendent of Police, this Court is of the view that the present Deputy Superintendent of Police is to be directed to proceed with the investigation. The Investigating Officer is also directed to



conduct investigation with respect to the second incident alleged to have occurred at 09.30a.m. on 29.11.2018 and also consider the defects and objections raised by the petitioner and to file a final report within a period of three months from the date of receipt of a copy of this order.

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

Sd/-

Assistant Registrar (CS-III)

// True Copy //

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Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Inspector General of Police,
O/o the Inspector General of Police,
South Zone, Madurai.
- 2.The Superintendent of Police,
O/o Superintendent of Police,
Dindigul District, Dindigul.
- 3.The Deputy Superintendent of Police,
O/o Deputy Superintendent of Police,
Vedasandur, Dindigul District.
- 4.The Sub-Inspector of Police,
Eriyodu Police Station,
Dindigul District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.D.SHANMUGARAJA SETHUPATHI, Advocate (SR-1361[F]
dated 12/01/2022)

Crl.O.P. (MD)No.1317 of 2019
10.01.2022

BK(CO)

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