

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.09.2022

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P.(MD)No.10565 of 2019

Ayothiraman

... Petitioner

-Vs-

1.The Superintendent of Police,

Ramanathapuram District, Ramanathapuram.

2.The Inspector of Police,

Kenikarai Police Station,

Ramanathapuram District.

... Respondents

(amended as per order of this Court dated 10.03.2022 in CrI.M.P.
(MD)No.7115 of 2019 in CrI.O.P.(MD)No.10565 of 2019)

PRAYER : Criminal Original Petition filed under Section 482 of Cr.P.C.,
to direct the 1st respondent to transfer the investigation regard to the
Crime No.110 of 2015, dated 08.03.2015 on the file of the 2nd respondent
police to some other competent investigation agency.

For Petitioner : Mr.K.Muthivai Ilayaraja

For Respondents : Mr.A.Thiruvadi Kumar,
Additional Public Prosecutor.

ORDER

This petition has been filed seeking for transfer of investigation of Crime No.110 of 2015, pending on the file of the 2nd respondent police.

2.The main ground on which this transfer petition has been filed is that there has been absolutely no progress in the investigation inspite of the directions issued by this Court in CRL.O.P.(MD)No.445 of 2016, wherein this Court directed the final report to be filed, within a period of four months through order dated 11.01.2016.

3.The learned Additional Public Prosecutor appearing for the respondents submitted that there were two accused persons in this case. The 1st accused while he was alive was making attempts to settle the dispute. In fact, for the adjacent plot, such a settlement was mooted and inspite of the demise of the 1st accused, settlement was made by his grandson. The same was also recorded by this Court, while disposing CRL.O.P.(MD)No.19604 of 2016. Insofar as this case is concerned,

since the 1st accused has died and the 2nd accused is staying abroad, the police is not in a position to proceed further with the investigation. The learned Additional Public Prosecutor for the respondents therefore submitted that there was no intentional delay in completion of the investigation and there is no ground for transfer of investigation.

4.In the considered view of this Court, the fact that the 2nd accused is abroad, cannot be a ground for not completing the investigation and filing a final report by showing the 2nd accused as an absconding accused. The entire case is borne out by records and the Investigation Officer must merely record the statement of the witnesses and collect the relevant documents and inspect and file a sketch of the available property in order to compare as to whether it matches with the one stated in the document. The absence of the 2nd accused cannot stop the Investigation Officer from proceeding further with the investigation and filing final report. Therefore, there is absolutely no justification for the 2nd respondent not to have progressed with the investigation.

5.In view of the above, this Court is inclined to direct the 1st respondent, namely, Superintendent of Police, Ramanathapuram District to monitor the investigation made by the 2nd respondent and investigation shall be completed and final report shall be filed, within a period of two (2) months from the date of receipt of a copy of this order. If the 2nd respondent is not able to secure the 2nd accused, he can show the 2nd accused as absconding accused in the final report.

6.This Criminal Original Petition is disposed of with the above directions.

14.09.2022

Index: Yes/No

Internet: Yes/No

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To

1.The Superintendent of Police,

Ramanathapuram District, Ramanathapuram.

2.The Inspector of Police,
Kenikarai Police Station,
Ramanathapuram District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

CrI.O.P.(MD)No.10565 of 2019

N.ANAND VENKATESH, J.

Myr

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