



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Criminal Original Jurisdiction

Monday, the Fourteenth day of November Two Thousand and Twenty Two
PRESENT

WEB COPY

The Hon`ble Mr.Justice SATHI KUMAR SUKUMARA KURUP

CRL MP(MD). No.13555 of 2022

in

CRL OP(MD).No.13126 of 2020

1. The Director General of Police,
Office of Director General of Police,
Dr. Radha Krishnan Salai, Mylapore, Cheenai-600 004.
2. The Superintendent of Police,
Office of Superintendent of Police,
Thoothukudi District, Thoothukudi-628101.
3. The Inspector of Police,
Arumuganeri Police Station, Thoothukudi District.
(Crime No.3030 of 2020)
4. The Deputy Superintendent Of Police,
C.B.C.I.D, Crime Branch,
Criminal Investigation Department,
Perumalpuram, Vasantha Nagar, Tirunelveli -627 007.

... Petitioners/Respondent

Vs

1 Habeeb Mohamed

2 The Additional Director General of Police, CBCID
(R2 is Suo Motu Impleaded as Per Order of this Court
dt.14.11.2022 in Crl.Mp(MD).13555 of 2022 in
Crl.Op(MD).13260 of 2020)

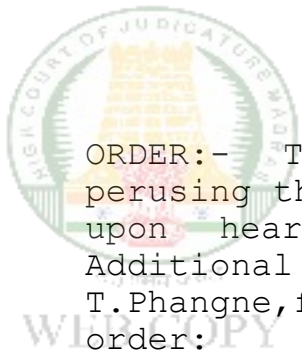
... Respondent/Petitioner

Prayer :-

This Petition is filed under section 482 Cr.P.C to extend the time for a further period of Six Months to complete the investigation and to file a final report as per the directions given by this Madurai Bench of Madras High Court, Madurai by its order dt. 23.06.2022 made in Crl.OP(MD)No.13126/2022

Prayer in CRL OP(MD). 13126/ 2020 :

This Criminal Original Petition filed under section 482 Cr.P.C to issue a direction to transfer the investigation to the 4th Respondent office for conducting fair and impartial investigation in Crime No.303 of 2020 on the file of the Respondent No.3.



ORDER:- This Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Thiru.R.Meenakshi Sundaram, Additional Public Prosecutor for the petitioners Thiru. Henri T.Phangne, for the first respondent, this Court made the following order:

The learned Additional Public Prosecutor sought for extension of time. As per his submission, the case was originally registered by Arumuganeri Police Station. Subsequently, the defacto complainant approached this Court seeking transfer of investigation. Accordingly, the investigation was transferred to CBCID and after taking up the investigation, the case was re-numbered as Cr.No.2 of 2021. The CBCID had proceeded with the investigation, examined sixty eight witnesses and twenty three documents. In the course of the recording of the statement of the defacto complainant, he was inconsistent. Therefore, the Investigation Officer had sought for medical records, regarding the injuries suffered by him. As per the statement recorded by the Investigation Officer, the defacto complainant claims to have fell down and injured, for which, he took treatment in the Government Hospital, Tirunelveli and also in a private hospital. Therefore, the Investigation Officer needs medical records regarding such claim. On receipt of the same, investigation will be completed, for which, he seeks extension of time and in Crl.M.P(MD)No.7008 of 2022, dated 23.06.2022, the Investigation Officer was granted three months extra time.

2.Now, the Investigation Officer wants medical records from the defacto complainant. As soon as the medical records are made available and recording the statements of the Doctors, who treated him, the investigation will be completed. Further, the investigation is at the concluding stage and the Investigation Officer had to seek expert's opinion and obtain sanction from the higher officials (Director General of Police). Therefore, further time of three months is required.

3.The learned Counsel appearing for the defacto complainant submits that this is a case of police atrocity and the police officials brutally attacked the defacto complainant. On 11.06.2020, he went to KMT Hospital, Kayalpattinam for treatment and then, shifted to Kayalpatinam Government Hospital. On the advise of the Medical Officer, Kayalpatinam Government Hospital, the defacto complainant decided to go to Government Medical College Hospital, Thoothukudi, for further treatment. The police officials from Arumuganeri Police Station prevented the defacto complainant from getting into the Ambulance and threatened him not to go to the Government Medical College Hospital, Thoothukudi. Then, he was



admitted at Rosemary Hospital, Tirunelveli, on 12.06.2020. In the first petition seeking extension of time in Crl.M.P(MD)No.7008 of 2022, they said forty three witnesses are examined and fifteen documents have been marked. This was a ground, on which, extension of time was sought for. Now, they are stating that sixty eight witnesses are examined and 23 documents have been filed. In Paragraph 7, it is stated that the treatment particulars are to be collected. Also, the previous treatment particulars related to the complaint of the complainant. All these are produced before the trial Court. If I go to the counter of the Deputy Superintendent of Police and the status report filed before this Court in November 2022, it is surprising that CBCID is coming forward with a petition seeking second extension of time citing that the documents related to the injury have to be collected. If the police personnel arrayed as the sanction of prosecution, what is coming behind, is important. For these, the Investigation Officer has made requisition only now for 32 cell phones numbers from 09.06.2020 to 30.06.2020. Some more witnesses have to be examined. In such a serious investigation, they ask for the Nephrologist opinion at this stage.

4.Considering the submissions of the learned Additional Public Prosecutor and considering the objections raised by the learned Counsel appearing for the respondent, who relied on the contents of the petition of the Investigation Officer and submitted that he himself at the stage of seeking transfer of investigation furnished with all the relevant documents regarding the treatment undergone by the respondent herein at KMT Hospital, Government Hospital, Kayalpatinam. Subsequently, when there was an attempt to shift the respondent herein from the Government Hospital, Kayalpatinam to Government Medical College Hospital, Thoothukudi, the Police Officials from Arumuganeri Police Station prevented him from being shifted to the said hospital. Therefore, he was brought to Rose Mary Hospital, Tirunelveli. All these documents were furnished as a part of the original petition filed by the respondent herein, seeking transfer of investigation from the file of the Arumuganeri Police. Therefore, this is a wanton delay to prevent from filing of the charge sheet before the Court concerned. Therefore, the learned Counsel appearing for the Respondent objects for extension of time. He relied on the contents of the petition filed by the Investigation Officer seeking call details of thirty two mobile phone numbers. If the investigation had been conducted properly and fairly, what prevented the investigation officer from seeking all these details when he had approached this Court seeking for extension of time in Crl.M.P (MD)No.7008 of 2022.

5.Considering the objections raised by the learned counsel appearing for the defacto complainant, originally, the Petitioner, who sought for transfer of investigation, the submission of the



learned Additional Public Prosecutor is found unjustified.

6. In the light of the vehement objection raised by the learned counsel appearing for the petitioner, this Court suo muto impleads the Additional Director General of Police, CBCID, as a Respondent in this criminal miscellaneous petition. Therefore, Registry is directed to implead the Additional Director General of Police, CBCID, as a Respondent in this criminal miscellaneous petition and carry out necessary amendment in the cause title.

7. The Additional Director General of Police, CBCID, shall peruse the CD file of the Investigation Officer of this Case. The Additional Director General of Police CBCID shall nominate a senior officer, not below the rank of the Superintendent of Police, CBCID to investigate the matter and supervise the investigation. If the investigation is not fair on the assessment of the said nominated officer, he/she shall request the Additional Director General of Police, CBCID, to withdraw the investigation from the present officer and see to it that the investigation proceeds on day-to-day basis and complete it within a limited time of two months and file the final report before the competent Court concerned. The Additional Director General of Police, CBCID, is also directed to see to it that the sanction is granted if the investigation is completed within the specified time of two months.

8. With the above directions, this criminal miscellaneous petition is disposed of.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/12/2022

Sub Assistant Registrar (CS)

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TO

1. The Director General of Police,
Office of Director General of Police,
Dr. Radha Krishnan Salai, Mylapore, Cheenai-600 004.

2. The Superintendent of Police,
Office of Superintendent of Police,
Thoothukudi District, Thoothukudi-628101.



3.The Inspector of Police,
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4.The Deputy Superintendent Of Police,
C.B.C.I.D, Crime Branch,
Criminal Investigation Department,
Perumalpuram, Vasantha Nagar, Tirunelveli -627 007.

5. The Additional Director General of Police CBCID
Chennai

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

+1 CC to M/s.R.KARUNANIDHI, Advocate (SR-55026[F] dated
15/11/2022)

ORDER DATED : 14/11/2022

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ORDER
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CRL MP(MD) . No.13555 of 2022
in

CRL OP(MD) .No.13126 of 2020

Giving direction and etc.
as stated within.

AMS (09.12.2022) 5P 8C