



W.P. No.22396 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.22396 of 2023

Gowthami

W/o. D. Maruthai

... Petitioner

Vs.

1.The State of Tamilnadu
represented by its Secretary,
Fort St. George, Chennai-600 009.

2.The Director General of Police,
Police Head Quarters,
Dr. Radhakrishnan Salai,
Mylapore, Chennai - 600 004.

3.The Inspector General of Police,
Central Zone,
Tiruchirappalli.

4.Madhan,
The Deputy Superintendent of Police,
Special Investigation Officer,
District Crime Branch, Ariyalur District.
Cr. No.3/2019.

....Respondents



W.P. No.22396 of 2023

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, pleaded to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned 'Further Action Dropped [FAD]' final report dated 11.08.2021, filed by Mr. Madhan, the Deputy Superintendent of Police in Crime No.3/2019 on the file of the District Crime Branch of Ariyalur and quash the same as illegal and consequently direct the 2nd respondent to appoint independent competent investigation officer for further investigation in Crime No.3/2019 on the file of District Crime Branch, Ariyalur to secure the ends of justice.

For Petitioner : Mr. R. Sankarasubbu

For Respondents : Mr.A.Damodaran
Additional Public Prosecutor

ORDER

This Writ Petition has been filed challenging the action dropped final report dated 11.08.2021 filed by the Deputy Superintendent of Police in Crime No.3 of 2019 and for a direction to the second respondent to appoint an independent competent investigation officer to conduct further investigation in Crime No.3 of 2019.

2. Heard Mr.R.Sankarasubbu, learned counsel appearing for the petitioner and Mr.A.Damodaran, learned Additional Public Prosecutor, appearing for respondents.

3. On carefully going through the documents, it is seen that the issue



W.P. No.22396 of 2023

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on hand has already been considered by this Court in
Crl.O.P.No.14609/2021 by order dated 30.08.2022. For proper
appreciation, the relevant portions in the order are extracted hereunder:

"6. The petitioner is the complainant and he lodged complaint on the allegation that he along with his family members availed loan from the City Union Bank, Vilanthai Branch, Aandimadam, Ariyalur District. While approaching the first accused viz., the Manager of the said Bank, to avail loan, he directed the petitioner to approach second accused for submission of documents. The petitioner applied for over due loan and loan for construction of OSL building as follows:-

- i) Loan A/c No.512020010016204 to the tune of Rs.35,00,000/- in the name of Kavidharini Enterprises.*
- ii) Loan A/c. No.512020010016011 to the tune of Rs.35,00,000/- in the name of Srivaraha Steels.*
- iii) Loan A/c. No.512020010015988 to the tune of Rs.40,00,000/- in the name of Kavidharini Agencies.*
- iv) Loan A/c. No.501812080021212 to the tune of Rs.1,00,00,000/- in the name of M. Gowthami.*

However, the petitioner received only a sum of Rs.22,80,000/- out of Rs.35,00,000/- and the remaining amount of Rs.12,20,000/- was misappropriated by the accused persons. According to the petitioner, a sum of Rs.1,28,30,395/- has been misappropriated by the accused persons and the petitioner was disbursed only the remaining amount out of Rs.2,10,00,000/-.

7. After registration of FIR, the Inspector of Police, District Crime Branch, Ariyalur conducted detail investigation. He had examined 19 witnesses and after recording their statement under Section 161 of Cr.P.C. found that the petitioner availed loan in the



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W.P. No.22396 of 2023

name of Sri Varaha Steels to the tune of Rs.35,00,000/- and thereafter in addition to that availed a sum of Rs.25,00,000/-. Even before availing the said loan, in the year 2016, 2017 & 2018, the petitioner availed nine loans to the tune of Rs.54,40,000/-. Thereafter from the year 2017 viz., between 20.02.2017 to 23.01.2018, there was a business transactions between the petitioner and the second accused. In the said transactions, through bank account there was money transactions to the tune of Rs.52,36,495/- to the petitioners family members account and also to the second accused account. The crux of the allegation is that without any signature of the petitioner in the loan application and the bank transaction form, they transferred the amount from the loan account. But all the transactions were happened only with the knowledge of the petitioner herein. Only on instructions of the petitioner, all the transactions have been done. Only after availing the loan, the petitioner had put up construction to the value of Rs.1,98,00,000/-. Therefore, no offence is made out as against the accused persons and closed the FIR as further action dropped.

8. The petitioner did not file any protest petition against the closure report. However, he submitted detail representation before the Inspector General of Police, Trichy, for re-investigation. The Inspector General of Police considered the request made by the petitioner and directed the Superintendent of Police, Ariyalur, to appoint another Investigating officer to conduct re-investigation in Crime No.3 of 2019. Accordingly, the Superintendent of Police, Ariyalur, appointed the Deputy Superintendent of Police, Ariyalur as Investigating officer to conduct re-investigation. As directed by the Superintendent of Police, the Deputy Superintendent of Police again examined the witnesses and on perusal of records concluded that no offence is made out as against the accused persons, since the petitioner along with his family members availed loan to the tune of Rs.2,10,00,000/- for development of their business and also for



W.P. No.22396 of 2023

construction. They put up construction for the value of Rs.1,98,00,000/- and as such only on the instruction and knowledge of the petitioner, all the transactions were happened between the bank and petitioner and his associates.

9. The said closure report dated 11.08.2021, submitted before the learned Judicial Magistrate No.II, Jayamkondan, Ariyalur. Therefore, the judgments cited by the learned counsel appearing for the petitioner are not helpful to the case on hand, since no investigation is pending on the file of any of the investigating officer in Crime No.3 of 2019. That apart, if the complainant is not satisfied with the closure report submitted by the Investigating Officer, he can very well approach the concerned Court to protest the closure report in the manner known to law.

10. In view of the above discussion, this Court is not inclined to entertain this petition. However, the petitioner is at liberty to file protest petition on the closure report submitted by the Deputy Superintendent of Police, Ariyalur, dated 11.08.2021, in the manner known to law, if so advised. Accordingly, this Criminal Original Petition is dismissed".

4. It is clear from the above that the attention of this Court was already drawn to the closure report submitted by the Deputy Superintendent of Police, Ariyalur dated 11.08.2021 and leave was granted by this Court to file a protest petition before the concerned Court, if the petitioner is aggrieved by the closure report. When such a direction has already been issued by this Court earlier u/s.482 Cr.P.C., there is no scope for this Court



W.P. No.22396 of 2023

to pass yet another order for the very same cause of action.

5. In view of the above, the earlier order passed by this Court in CrI.O.P.No.14609 of 2021 dated 30.08.2022 stands and the only relief that is available to the petitioner is to file protest petition before the concerned Court and work out her remedy.

Accordingly, this Writ Petition is disposed of. No Costs.

14.08.2023

Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No
gm / mjs

To

- 1.The Secretary,
Fort St. George, Chennai-600 009.
2. The Director General of Police,
Police Head Quarters,
Dr. Radhakrishnan Salai,
Mylapore, Chennai - 600 004.
3. The Inspector Genral of Police,
Central Zone,
Tiruchirappalli.



W.P. No.22396 of 2023

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4. Mr. Madhan,
The Deputy Superintendent of Police,
Special Investigation Officer,
District Crime Branch, Ariyalur District.

5. The Public Prosecutor,
High Court of Madras



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W.P. No.22396 of 2023

N.ANAND VENKATESH, J

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W.P. No.22396 of 2023

14.08.2023