



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.10.2023

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.20737 of 2020,
W.P.No. 10432 of 2021 & Contempt Petition No.1238 of 2021
and
W.M.P.No.11030 of 2021

Crl.O.P.No.20737 of 2020

Prakash

... Petitioner

Vs.

1.The State,
rep. by the Director General of Police,
Kamarajar Street,
Chennai – 600 004.

2.The State,
rep. by he Inspector General of Police,
West Zone, Race Course Road,
Thaomas Park,
Coimbatore – 641 018.

3.The Superintendent of Police,
Dharmapuri District,
Dharmapuri.

4.Inspector of Police,
Perumpalai Police Station,
Perumpalai, Dharmapuri.



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5. Inspector of Police,
CBCID, Dharmapuri,
Dharmapuri – 636 705.

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, to transfer the investigation in Crime No.1143 of 2020 on the file of the 4th respondent police to transfer to CBCID Police or any other appropriate investigation agency.

Writ Petition No.10432 of 2021

Prakash

... Petitioner

Vs.

1. The Government of Tamil Nadu,
Home Department,
Fort St. George,
Chennai – 600 009.
2. The Director General of Police,
Chennai.
3. The Inspector General of Police,
West Zone, Race Course Road,
Thaomas Park,
Coimbatore – 641 018.
4. The Superintendent of Police,
Dharmapuri District,
Dharmapuri.



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5.The Inspector of Police,
Perumpalai Police Station,
Perumpalai, Dharmapuri.

6.Madiazhagan

7.Perumal

8.Sivaguru

9.Rajendran

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, directing the respondents 1 to 4 take appropriate action against the 6 to 9 respondents to transfer to some other police station based on the petitioner representation dated 04.03.2021.

Contempt Petition No.1238 of 2021

Prakash

... Petitioner

Vs.

1.Mr.C.Kalaiselvan, I.P.S.,
Superintendent of Police,
Dharmapuri District, Dharmapuri.

2.Mr.T.S.Palanisami,
Inspector of Police,
Perumpalai Police Station,
Perumpalai, Dharmapuri.

... Respondents

Prayer: Contempt Petition is filed under Section 11 of the Contempt of Courts Act, to punish the respondents herein for having committed wilful and deliberate contempt and disobedience of the lawful final order passed by this Hon'ble Court dated 24.02.2021 in Crl.O.P.No.3659 of 2021.



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For Petitioner	: Mr.C.Uma Shankar (in all petitions)
For Respondents	: Mr.L.Baskaran, Public Prosecutor (in all petitions)

ORDER

The Criminal Original Petition in Crl.O.P.No.20737 of 2020 has been filed to transfer the investigation in Crime No. 1143 of 2020 on the file of the fourth respondent to CBCID Police or any other appropriate investigation agency.

2. The Writ Petition in W.P.No.10432 of 2021 has been filed for directing the respondents 1 to 4 to take appropriate action against the respondents 6 to 9 to by considering the representation dated 04.03.2021 submitted by the petitioner.

3. The Contempt Petition No.1238 of 2021 has been filed to punish the respondents for not obeying the order dated 24.02.2021 passed by this Court in Crl.O.P.No.3659 of 2021, thereby directing the respondents to continue with the investigation effectively and based on the materials collected during the course of investigation, either alter the F.I.R or file the final report by adding the necessary offences made out.



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4. The learned counsel for the petitioner would submit that the petitioner had lodged a complaint before the Inspector of Police, Perumpalai, who in turn has not registered any F.I.R and as such, the petitioner was constrained to file a petition in C.M.P.No.1017 of 2020 under Section 156(3) of the Code of Criminal Procedure, 1973 before the learned Judicial Magistrate, Pennagaram, who in turn vide order dated 22.09.2020, directed the respondent to register the case and conduct an investigation. Even after a direction issued by the learned Judicial Magistrate, Pennagaram, the respondent / the Inspector of Police, Perumpalai, did not register any F.I.R and hence, the petitioner was constrained to file a petition for a direction in Crl.O.P.No.17933 of 2020 to register the F.I.R, as directed by the Judicial Magistrate, Pennagaram and this Court had passed an order dated 30.11.2020, directing the Inspector of Police, Perumpalai to comply with the direction issued by the Judicial Magistrate, Pennagaram by order dated 22.09.2020 in C.M.P.No.1017 of 2020. Thereafter, an F.I.R has been registered in Crime No. 1143 of 2020 for the offences under Sections 323, 342 and 350 of Indian Penal Code, 1860. While the investigation is pending, the petitioner has filed a petition to alter the offences in Crime No. 1143 of 2020 in Crl.O.P.No.3659 of 2021 and this Court had passed an order dated



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24.02.2021, directing the respondents to either alter the F.I.R or file the final report by adding the necessary offences made out. Now, the respondents without even conducting any enquiry and without compliance of the order passed by this Court, had closed the F.I.R as 'Mistake of Fact' on 13.12.2020 itself. Therefore, the petitioner has submitted a detailed representation dated 04.03.2021 to take action against the respondents 6 to 9 in W.P.No.10432 of 2021. Simultaneously, the petitioner had also filed a petition in Crl.O.P.No.20737 of 2020 for transfer of investigation in Crime No. 1143 of 2020 from the file of the fourth respondent to CBCID Police or any other appropriate investigation agency.

5. On perusal of the Counter-Affidavit filed by the respondents, it is revealed that when the petitioner had filed the petition for alteration of offences and when the matter came up for hearing before this Court on 24.02.2021, the respondents could not be able to properly instruct the learned Public Prosecutor that the F.I.R was already enquired and closed as 'Mistake of Fact', as early as on 13.12.2020 itself due to COVID-19 Pandemic circumstances. After closure of the F.I.R as 'Mistake of fact', notice was issued to the petitioner in R.C.S Notice No.4 of 2020. However, the petitioner



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had refused to receive the same and the said notice was filed before the Judicial Magistrate, Pennagaram. Thereafter, the petitioner filed a petition for objection and the same has been treated as Protest Petition in Crl.M.P.No.2524 of 2021, which is pending for disposal. In the meantime, the petitioner had lodged a complaint to take appropriate action against the respondents 6 to 9 in W.P.No.10432 of 2021 and it was enquired after giving an opportunity to the petitioner and the same was rejected.

6. That apart, the petitioner, so far has involved in 8 previous cases and he is a history sheeter and a notorious criminal in and around the jurisdiction of the respondent police. However, now the Protest Petition filed by the petitioner has been taken by the learned Judicial Magistrate, Pennagaram and that an F.I.R was already enquired and the same was closed on 13.12.2020 and the Protest Petition in Crl.M.P.No.2524 of 2021 is posted on 20.10.2023. Therefore, the respondents could not be able to properly instruct the learned Public Prosecutor that an F.I.R was already enquired and closed on 13.12.2020 itself due to COVID-19 Pandemic circumstances. Considering the above facts and circumstances, no contempt was made out and consequently, the Contempt Petition No.1238 of 2021 stands dismissed.



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7. Insofar as the Criminal Original Petition in CrI.O.P.No.20737 of 2020 filed for transfer of investigation in Crime No. 1143 of 2020 from the file of the fourth respondent to CBCID Police is concerned, the same has become infructuous, since the fourth respondent had already filed the final report and the same is pending before the learned Judicial Magistrate in CrI.M.P.No.2524 of 2021.

8. As far as the Writ Petition in W.P.No.10432 of 2021 is concerned, the representation submitted by the petitioner was equired in a detailed manner by the Deputy Superintendent of Police and the same was closed. Recording the same, the Writ Petition in W.P.No.10432 of 2021 stands closed. Consequently, the connected Miscellaneous Petition is closed. No costs.

9. In view of the above facts and circumstances, the learned Judicial Magistrate, Pennagaram is directed to dispose of the Protest Petition in CrI.M.P.No.2524 of 2021 filed by the petitioner within a period of 12 weeks from the date of receipt of a copy of this order. However, it is made clear that if any cognizable offence is made out by the petitioner, the learned Judicial



Magistrate, Pennagaram shall take cognizance and issue summons to the accused and proceed with the trial in accordance with law.

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

- 1.The Government of Tamil Nadu,
Home Department,
Fort St.George, Chennai – 600 009.
- 2.The Director General of Police, Chennai.
- 3.The Inspector General of Police,
West Zone, Race Course Road,
Thaomas Park, Coimbatore – 641 018.
- 4.The Superintendent of Police,
Dharmapuri District, Dharmapuri.
- 5.The Inspector of Police, Perumpalai Police Station,
Perumpalai, Dharmapuri.
- 6.The Director General of Police,
Kamarajar Street, Chennai – 600 004.
- 7.The Inspector General of Police,
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Thaomas Park, Coimbatore – 641 018.



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skr

8.The Superintendent of Police,
Dharmapuri District,
Dharmapuri.

9.The Inspector of Police,
Perumpalai Police Station,
Perumpalai, Dharmapuri.

10.The Inspector of Police,
CBCID, Dharmapuri,

Crl.O.P.No.20737 of 2020,
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