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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.08.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

**Crl.O.P.No.17824 of 2023
and Crl.M.P.No.11733 of 2023**

Rajalakshmi

..
Petitioner

Vs.

1. Superintendent of Police,
Cuddalore District,
Cuddalore.
2. The Inspector of Police,
Muthandikuppam Police Station,
Cuddalore District,
(Crime No.364 of 2022)
3. The Inspector of Police,
CBCID,
Cuddalore District,
Cuddalore.

..Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records with regard to the final report filed in S.C. No.85 of 2023 on the file of the I Additional District and Sessions Judge, Cuddalore and set aside the same and consequently direct the 1st respondent to transfer the



investigation in Crime No.364 of 2022 from the 2nd respondent to any other investigating agent for further investigation and to file the final report a fresh.

For Petitioner : Mr.C.V. Ilangovan

For Respondents : Mr.A.Damodaran
Additional Public Prosecutor

ORDER

This petition has been filed seeking for transfer of investigation in Crime No.364 of 2022 and also to set aside the final report that has been filed by the respondent police which has been taken on file by the Court below in S.C.No.85 of 2023.

2.The grievance of the petitioner is that there has been an absolute slipshod investigation on the part of the respondent police and even though, the section has been altered to offence under Section 302 of PC, there is absolutely no material to sustain the same and the investigation has been done only to enable the accused persons to go scot.

3.The petitioner had earlier filed Crl.O.P.No.4436 of 2023 seeking for the relief of transfer of investigation in Crime No.364 of 2022 and this Court by an order dated 13.06.2023 disposed of the petition on the ground that the final report has already



been taken on file by the Court below in S.C.No.85 of 2023 and hence, there is no scope for transferring the investigation.

4.The petitioner who is the *defacto* complainant is not satisfied with the manner in which the investigation had taken place and the consequent final report that has been filed before the Court below. Therefore, the petitioner has now challenged the final report that was taken on file by the Court below and is also seeking for transfer of investigation.

5.In the considered view of this Court, the final report has now been filed before the Court below and the Court below is yet to frame charges. It is seen from the proceedings of the Court below dated 31.07.2023 that the case is now posted on 14.08.2023 for framing charges.

6.The final report has already been filed and it has been taken on file by the Court below. At this stage, there is no scope for transferring the investigation. The Apex Court in *Vinubhai Haribhai Malaviya & Others vs. The State of Gujarat & Another* reported in **2019 (3) MWN (Crl) 349** has revisited the law and it was categorically held that the Magistrate can order for further investigation even after



taking cognizance of the final report till the commencement of trial. It was further held that Section 156(3) of Cr.P.C., can be resorted to and the power for further investigation can be exercised even post-cognizance.

7. It is clear from the above judgment that the trial Court itself has been given very wide powers to ensure that justice is not denied to the *defacto* complainant and if the trial Court is not convinced with the materials placed before the Court, the trial Court can always order for a further investigation and it is not necessary for the trial Court to even wait for an application to be filed in this regard from the side of the *defacto* complainant or from the side of the prosecution. This shall be kept in mind by the Court below and the Court below shall go through the materials that have been collected and satisfy itself whether an effective investigation had taken place in this case. If not, it is always left open to the trial Court to order for a further investigation and it is also left open to the trial Court to direct the investigation to be monitored by the Superintendent of Police, if the situation so warrants. Except giving this clarity, no further orders can be passed in this criminal original petition.



8.This criminal original petition is disposed of in the above terms.

Consequently, connected miscellaneous petition is closed.

08.08.2023

Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

ssr

Note: Issue Order Copy on 11.08.2023

To

- 1.The I Additional District and Sessions Judge,
Cuddalore.
- 2.The Superintendent of Police,
Cuddalore District,
Cuddalore.
- 3.The Inspector of Police,
Muthandikuppam Police Station,
Cuddalore District,
- 4.The Inspector of Police,
CBCID,
Cuddalore District,
Cuddalore.



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N.ANAND VENKATESH, J

SSR

5.The Public Prosecutor
High Court of Madras,
Madras.

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