



Writ Petition No.23702 of 2023

W.P.No.23702 of 2023

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N.ANAND VENKATESH,J.

The matter is posted under the caption “For Being Mentioned” today on the ground that at Paragraph No.9 of the order, this Court had directed the ADGP, CBCID to ensure that the accused persons do not involve in any such offences in future.

2. This Court only meant that if the accused persons continue to commit any such offences, the ADGP, CBCID, will take appropriate action against him immediately in accordance with law. Therefore, the directions given by this Court should be understood in that context.

3. Except giving this clarity, no further orders are required to be passed in this case.

11.10.2023

tsg



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.09.2023

CORAM :

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

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Thambidurai Balaganesan

... Petitioner

Versus

- 1.Home Secretary to Tamil Nadu Government,
Home Department,
Secretariat, Chennai - 9.
- 2.Additional Chief Secretary to the Tamil Nadu Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai.
- 3.Director - General of Police (DGP),
No.1, Dr.Radhakrishna Salai,
Mylapore,
Chennai - 600 004.
- 4.Joint Director,
Central Bureau of Investigation,
E.V.K., Sampath Building,
College Road,
Chennai - 600 006.
- 5.The Inspector of Police,
Central Crime Branch, CCB-1,
Chennai.

... Respondents



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the third respondent to transfer the investigation in Cr.No.46 of 2023 on the file of the fourth respondent police to CBI or any other investigation agency.

For Petitioner : Mr.G.Mohana Krishnan

For Respondents : Mr.A.Damodaran
Additional Public Prosecutor

ORDER

This writ petition has been filed seeking for transfer of investigation pending on the file of the fifth respondent in Crime No.46 of 2023 to CBI or to another investigating agency.

2. When the matter came up for hearing on 11.09.2023, this Court has passed the following order :-

Pursuant to the order passed by this Court on 11.08.2023, the matter stood posted today and a status report has also been filed by the second respondent. On going through the status report, it is seen that there is a clear design on the part of the accused persons in cheating the petitioner to the tune of Rs.43.96 crores. A1 is the Company and A2 is the Director of the Company and it is seen from the status



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report that A2 was arrested and remanded to judicial custody on 20.02.2023. A4, who had claimed himself as a former Minister had in fact impersonated the Minister and had given confidence to the petitioner to part with huge sums of money. The main grievance expressed by the learned Counsel for the petitioner is that apart from this case, there are nearly three to four cases against A2 who is repeatedly involved in such offence by adopting the same modus operandi. The learned Counsel for the petitioner further submitted that till date, except for the confession, no progress has been made in the investigation and even the bank account has not been freezed till date. Therefore, the learned Counsel for the petitioner insisted for transferring the investigation to C.B.I.

2. The learned Additional Public Prosecutor seeks for some time to take instructions for collecting the particulars of the other cases that are pending against A2. The learned Additional Public Prosecutor submitted that the second respondent is carrying on with the investigation effectively and the materials have also been collected by the second respondent and there is no need to transfer the investigation at this stage.

3. Considering the exorbitant amount that was taken



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away from the petitioner by practicing deception and also considering the fact that there is a design in the entire modus operandi, this Court wants to ascertain if the same accused person is involved in similar offences. Hence, there shall be a direction to the learned Additional Public Prosecutor to collect the relevant information and place it before this Court. After particulars are furnished, this Court will pass final orders on the request made by the petitioner for transfer of investigation.

4. Post this case under the same caption on 14.09.2023.

3. When the matter was taken up for hearing today, the learned Additional Public Prosecutor produced the case details that are pending in the Central Crime Branch against the accused person and the same is tabulated hereunder :-

Sl.No.	Crime No.	Section of Law	Team	Stage	Property Loss [Amount in Rs.]
1.	46/2023	U/s.406, 419, 420 r/w.120 B IPC	CCB EDF(II), Team – 37	Under investigation	43.09 Crores
2.	277/2019	U/s.409,	CCB, EDF	Under	



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Sl.No.	Crime No.	Section of Law	Team	Stage	Property Loss [Amount in Rs.]
		420, 506(i) r/w. 120 B IPC	(iii) Team 21(B)	investigation	2.62 Crores
3.	30/2022	U/s.406, 420, 506(i) IPC	CCB, EDF (I), Team-2	Under investigation	2.10 Crores
4.	211/2022	U/s.406, 420, 506(i) IPC	CCB, EDF(I) Team 2	Under investigation	92.50 lakhs

4. The learned counsel for the petitioner submitted that the accused person is highly influential with political contacts and that he is repeatedly involved in cheating innocent persons with huge sums of money and the investigation conducted by the Central Crime Branch is completely ineffective. The learned counsel for the petitioner submitted that he is insisting for the transfer of investigation to CBI, considering the amount of influence possessed by the accused person and according to the learned counsel for the petitioner, a fair investigation can be done only if it is transferred to the centralised agency.

5. Per contra, the learned Additional Public Prosecutor



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submitted that the investigation is carried on in an effective manner. It was submitted that out of the six cases, the investigation was completed in two cases and they are at the stage of trial. Including the present case, three other cases are at the stage of investigation. The learned Additional Public Prosecutor submitted that already steps have been taken to ascertain the assets and the bank account of the accused person and the same will be freezed at the earliest point of time. The learned Additional Public Prosecutor submitted that when an effective investigation is carried out by the Central Crime Branch, there is no need for transfer of investigation.

6. This Court has carefully considered the submissions made on either side and also perused the materials placed before it.

7. This is not a case where the accused person is involved in a solitary case and that the investigation is not carried on satisfactorily. The accused person seems to be repeatedly involved in similar crimes from the year 2019 onwards and there are atleast six cases that have been



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registered against him. In all the cases, huge amounts of money are involved. The fact that the accused person continues to commit similar offences inspite of earlier FIRs pending against him, shows that all is not well and there is more than what meets to eye. In the instant case, it is also seen that one of the accused person had claimed himself to be a former Minister and he had infact impersonated a Minister and had inspired the confidence of the petitioner to part with huge amount of money. In the present case, the total amount involved is nearly Rs.43.90 crores.

8. Considering the nature of the offence and also the fact that there is a pattern involved in each case and the accused person is repeatedly involved in committing such crimes, the investigation has to be carried out by a Centralized agency like CBCID. This Court is inclined to transfer the investigation not on the ground that the Central Crime Branch is ineffective. This Court is constrained to transfer the investigation, since the accused person seems to be very influential and is repeatedly involved in offences by cheating persons with huge sums of



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money. Therefore, there must be some semblance of seriousness to build some confidence that investigation will be done effectively and that the accused person will be prevented from committing such offences in future. It is quite curious that this accused person was infact detained in Act 14 of 1983 once and inspite of it, he continues to commit such offences. This only means that the accused person has some powerful backing at some level.

9. In the light of the above discussion, this Court is inclined to transfer of the FIRs that are at the stage of investigation before the CCB to the file of CBCID. In view of the same, the investigation in Crime Nos.46 of 2023, 277 of 2019, 30 of 2022 and 211 of 2022, are transferred to CBCID. These case diaries shall be immediately handed over to the ADGP, CBCID, Chennai not later than one week from the date of receipt of a copy of this order. The ADGP, CBCID, shall form a special team for investigating the above four cases and the investigation shall be carried out effectively and completed as expeditiously as possible and final report shall be filed. The ADGP, CBCID, shall also ensure that all



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the assets including bank accounts are traced and it shall also be ensured that the accused persons do not involve in any such offences in future.

Ultimately, this Court expects that there must be confidence in the manner in which the investigation is done against the accused persons.

10. This writ petition is disposed of in the above terms. No costs.

15.09.2023

Index: Yes/No
Speaking Order / Non-Speaking Order
Neutral Citation: Yes / No

rjr/rka



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To
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- 1.Home Secretary to Tamil Nadu Government,
Home Department,
Secretariat, Chennai - 9.
- 2.Additional Chief Secretary to the Tamil Nadu Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai.
- 3.Director - General of Police (DGP),
No.1, Dr.Radhakrishna Salai,
Mylapore,
Chennai - 600 004.
- 4.Joint Director,
Central Bureau of Investigation,
E.V.K., Sampath Building,
College Road,
Chennai - 60 006.
5. The Additional Director General of Police, CB-CID,
Chennai
- 6 The Inspector of Police,
Central Crime Branch, CCB-1,
Chennai.
7. The Public Prosecutor, High Court, Madras



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