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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 19/06/2023

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The Hon'ble Mr.Justice **G.ILANGO VAN**

Cr1.OP(MD)No.7429 of 2023

S.Saravana Kumar : Petitioner

Vs.

- 1.The Superintendent of Police,
O/O.The Superintendent of Police,
Dindigul District.
- 2.The Deputy Superintendent of Police,
O/o.The Deputy Superintendent of Police,
Palani,
Dindigul District.
- 3.The Inspector of Police,
Keeranur Police Station,
Palani,
Dindigul District. : Respondents

PRAYER:- Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to direct the respondents 1 and 2 to withdraw the investigation in Crime No.57 of 2023 on the file of the 3rd respondent police and to transfer the same to any other competent investigation officer for fair investigation.



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For Petitioner : Mr.G.Karuppasamy Pandiyan

For Respondents : Mr.B.Nambiselvan
Additional Public Prosecutor

ORDER

This criminal original petition has been filed seeking direction to the respondents 1 and 2 to withdraw the investigation in Crime No.57 of 2023 on the file of the 3rd respondent police and transfer the same to any other competent Investigation Officer for fair investigation.

2.The case of the prosecution in brief:-

On 01/04/2023 at about 10.15 am, the de-facto complainant was collecting coconut from his coconut thope. At that time, the accused persons picked up quarrel with his brother. When he was proceeded further, the accused waylaid him, caused assault, causing simple injuries. He was also threatened with Aruval. One Kumaravel also tried to strangulate him. Again, they started assault made with coconut stick. He was admitted in the Government Medical College Hospital, on



01.04.2023. On the basis of the above said occurrence, a case in Crime No.57 of 2023 was registered for the offence under sections 147, 341, 294(b), 323 and 506(ii) IPC.

3.Now this petition has been filed seeking transfer of investigation of Crime No.57 of 2023; There is a pathway dispute between the parties over the agricultural field. So, a case in Crime No.33 of 2023 was registered for the offences under sections 294(b) and 506(i) IPC against the de-facto complainant's party. They obtained pre-arrest bail, but did not comply the condition. On 01/04/2023, the de-facto complainant started attacking. So, a case in Crime No.57 of 2023, which is the present case, was registered; The 3rd respondent registered a case in Crime No.58 of 2023 against this petitioner and his father with reference to the very same occurrence. While granting pre-arrest bail in respect of Crime No.33 of 2023, in Cr1.OP(MD)No.6168 of 2023, it has been stated that there is no impediment to proceed the Crime No.57 of 2023. But after knowing the above said order, sections were altered deliberately to 506(ii) from 506(i) IPC and he was enlarged on bail in



the station itself. So, this shows the biased attitude of 3rd respondent. Fearing that he will not get any fair justice at the hands of 3rd respondent, this petition has been filed.

4. Heard both sides.

5. It is a pathway issue between the de-facto complainant party and the petitioner, over which, three cases have been registered. First one is Crime No.33 of 2023. So, all the three CD files have been called for. The date of the occurrence in Crime No.33 of 2023 is stated to be 31.10.2022 at about 10.00 am. The Investigation has been completed and final report is also made ready, on 05/04/2023.

6. So far as this case in Crime No.57 of 2023 is concerned, the date of occurrence is 01/04/2023 and the final report was made ready, on 25/03/2023. But whether, it is presented before the concerned court or not is not clear on record. As a counter case to the present case in Crime No.57 of 2023, which was registered in Crime No.58 of 2023, the date of occurrence is stated as 01/04/2023,



wherein also, we find that the final report is also made ready. But it was not presented before the trial court so far.

7.The learned Additional Public Prosecutor has also produced alteration report deleting one Manimaran and Boopathy from array of the accused. But however, the penal provision was altered to section 506(ii) IPC. If the petitioner is aggrieved over the deletion of the two persons, he can work out his remedy before the concerned court through appropriate proceedings. On that account, no question of transfer of investigation has arisen, since it is a case and counter case, the legality of the filing of final report in both matters, is also now under question. So, that will be taken up at the appropriate time.

8.Alteration report is also filed deleting the offence under section 506(i) IPC. Now the allegation is that in the present case with the ulterior motive, section was altered in Crime No.33 of 2023. The penal provision has been altered from 506(2) to 506(i) IPC. Since almost investigation is over and final report is



also made ready, I find absolutely no reason to transfer the investigation in this subject matter. I find no bias attitude on the side of the Investigating Officer also. Simply because, the alternation report has been made, it will lead to interfere that it was biased investigation. So, as mentioned earlier, perusal of the CD file does not indicate even a single incident against the Investigating Officer. I find no reason to transfer the investigation. More-over, now the matter has also become infructuous.

9.In the result, this petition is **dismissed as infructuous.**

19/06/2023

Index:Yes/No
Internet:Yes/No

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To,
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O/O.The Superintendent of Police,
Dindigul District.
- 2.The Deputy Superintendent of Police,
O/o.The Deputy Superintendent of Police,
Palani,
Dindigul District.
- 3.The Inspector of Police,
Keeranur Police Station,
Palani,
Dindigul District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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