



W.P(MD).No.14457 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 18.12.2023

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

W.P(MD)No.14457 of 2021

and

W.M.P(MD).No.11403 of 2021

K.Ishwarya

... Petitioner

Vs.

1. The Director General of Police,
Office of the Director General of Police,
Dr.Radhakrishnan Salai, Mylapore,
Chennai- 600 004.
2. The Commissioner of Police,
Madurai City,
Alagar Kovil Main Road,
Madurai-625 007.
3. The Inspector of Police,
Koodal Pudur Police Station,
Madurai.
Crime No.1388 of 2020
4. The Joint Director and Head of Chennai Zone,
Central Bureau of Investigation,
3rd Floor, EVK Sampath Building,
College Road,
Chennai-6.
5. The Superintendent of Police,
CBCID, Madurai.

... Respondents



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Prayer: Writ Petition has been filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus or any other order or direction in the nature of writ directing the 1st Respondent to transfer the investigation of the case in Crime No.1388 of 2020 on the file of the 3rd Respondent to any other investigating agency.

For Petitioners : Mr.Niranjan S.Kumar

For Respondents : Mr.T.Senthil Kumar,
Additional Public Prosecutor,
for R1 to R3

: Mr.N.Mohideen Basha,
Special Public Prosecutor for CBI
for R5

ORDER

This Writ petition has been filed to direct the first respondent to transfer the investigation of the case in Crime No.1388 of 2020 on the file of the third respondent to any other investigating agency.

2.The case of the prosecution is that on 05.09.2020 at about 14.45 hours, the Sub Inspector of Police, D3 Koodal Pudur Police Station, along with other police persons conducted a raid at Amman Nagar 1st Street, Imayam Nagar,



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Aanaiyur, Maduria regarding the Narcotic Drugs. At about 03.00 hours, they went on surveillance at 15 feet road at north side of one Pradeep @ Pragadeeswaran's house. At that moment, the Police parties saw 15 persons in that place in a suspicious manner. On seeing the police parties, all the 15 persons tried to escape from the place. The Police parties secured three persons and on enquiry, they introduced themselves as 1.Pradeep @ Pragadeeswaran 2.Kannan, 3.Sudhakaran. The remaining persons escaped from the place. The Police officials after complying all the legal formalities of providing information regarding the search and their legal right whichever available to them, conducted search and found nearly about 22 kgs of Ganja in a gunny bag. After taking the samples, the remaining Ganja was seized from the above said three persons and after complying the legal formalities, the Inspector of Police, brought the above said persons to the Police Station and thereafter, gave a report under Section 57 of NDPS Act, to the Assistant Commissioner of Police, Tallakulam Range. Based on which, a case in Crime No.1388 of 2020 under Sections 8(c) r/w 20(b) (ii)(C) and 29(1) of NDPS Act, was registered.

3.The learned Additional Public Prosecutor, on instructions, submitted that the investigation is completed by the third respondent and thereafter, he has also



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filed proper final report before the concerned Court and the same was taken on file in C.C.No.120 of 2021. The petitioner also participated in the trial proceedings, cross examined witnesses and, the questioning under Section 313 of Cr.P.C., is also completed. Thereafter, the case was posted for arguments.

4.Since the final report has already been filed and the case was taken on file in C.C.No.120 of 2021 and also reached the stage of arguments, therefore, nothing survives for further adjudication in this petition.

5. The Hon'ble Supreme Court in the case of ***Romila Thapar and others Vs. Union of India and others*** reported in ***(2018) 10 SCC 753*** has reiterated the consistent view that the accused cannot ask for changing the investigating agency or to do investigation in particular manner including for Court monitoring investigation.

6.The case of the petitioner is that a false case was registered against him for the offence under Section 8(c), 20(b)(ii)(c), 29(i) of NDPS Act, 1985. According to the petitioner, he was illegally taken under the custody of the police, before the registration of the said case. The relative of the petitioner



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already sent a representation before registering the case under the NDPS Act, 1985, informing the above illegal detention. The said contention of the petitioner are the matter for defence during the course of trial and the same is not the ground for transfer of the investigation to the CBI. The Hon'ble Supreme Court issued the detailed guidelines to transfer the case to CBI in the case of ***State of W.B. v. Committee for Protection of Democratic Rights***, reported in ***2010 (3) SCC 571*** and the petitioner's case is not come under any of the above guidelines.

7. Therefore, this Court finds no ground to entertain this writ petition. Accordingly, this Writ Petition is dismissed. No costs. Consequently, the connected Writ Miscellaneous Petition is closed.

18.12.2023

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
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Madurai Bench of Madras High Court, Madurai.



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