



W.P(MD).No.14458 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.14458 of 2021

and

W.M.P(MD).No.11412 of 2021

P.Saba @ Sabarathinam

... 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 Superintendent of Police,
District Superintendent of Police Office,
Ramanathapuram – 623503.
4. The Inspector of Police,
S.S.Colony Police Station,
Madurai,
Crime No.2361 of 2020
5. The Inspector of Police,
Subramaniapuram Police Station,
Madurai.
Crime No.1453 of 2020



W.P(MD).No.14458 of 2021

WEB

6. The Inspector of Police,
Keerathurai Police Station,
Madurai.
Crime No.97 of 2020

7. The Inspector of Police,
Paramakudi Town Police Station,
Ramanathapuram,
Crime No.96 of 2020

8. The Joint Director and Head of Chennai Zone,
Central Bureau of Investigation,
3rd Floor, EVK Sampath Building,
College Road, Chennai-6.

9. The Superintendent of Police,
CBCID, Madurai.

... Respondents

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 cases in Crime No.2361 of 2020 on the file of SS Colony Police Station, Crime No.1453 of 2020 on the file of Subramaniapuram Police Station, Crime No.96 of 2021 on the file of Paramakudi Town Police Station, Crime No.97 of 2021 on the file of Keerathurai Police Station to any other investigating agency.



WEB COPY



W.P(MD).No.14458 of 2021

For Petitioners : Mr.Niranjana S.Kumar

For Respondents : Mr.T.Senthil Kumar,
Additional Public Prosecutor,
for R1 to R7

: Mr.N.Mohideen Basha,
Special Public Prosecutor for CBI
for R9

ORDER

This Writ petition has been filed to direct the first respondent to transfer the investigation of the cases in Crime No.2361 of 2020 on the file of SS Colony Police Station, Crime No.1453 of 2020 on the file of Subramaniapuram Police Station, Crime No.96 of 2021 on the file of Paramakudi Town Police Station, Crime No.97 of 2021 on the file of Keerathurai Police Station to any other investigating agency.

2.The case of the prosecution is that on the date of occurrence, the respondents 4 to 7 received a secret information from the informer regarding the illegal sale of Ganja. Based on the secret information, the respondents 4 to 7, after obtaining permission from the Inspector of Police went along with the police persons to the occurrence place and conducted vehicle check up. The



W.P(MD).No.14458 of 2021

accused persons tried to escape from the place on seeing the police parties. The police parties secured them and on enquiry, they introduced themselves. The Police officials, after showing their Identity Card and after complying all the legal formalities conducted search and found nearly about 90 kgs, 332 kgs, 42 kgs and 30 kgs of Ganja in two gunny bags and cell phones were seized. After taking the samples, the remaining Ganja was seized from the above said persons and after complying the legal formalities, the respondents 4 to 7, arrested the petitioner and another accused persons and gave a report under Section 57 of the NDPS Act. Based on which, a case in Crime Nos. 2361 and 1453 of 2020, 96 and 97 of 2021 for the offence under Sections 8(c) r/w 20(b)(ii)(C) and 29(1) of NDPS Act, were registered.

3.The learned Additional Public Prosecutor, on instructions, submitted that the investigation is completed by the respondents 4 to 7 and thereafter, he has also filed proper final report before the concerned Court and the same were taken on file in C.C.Nos.231, 244 and 324 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.



W.P(MD).No.14458 of 2021

WEB COPY

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 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



W.P(MD).No.14458 of 2021

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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W.P(MD).No.14458 of 2021

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9. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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