



WEB COPY

Crl.O.P.(MD)No.15387 of 2023



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **31.08.2023**

CORAM:

THE HONOURABLE DR.JUSTICE **D.NAGARJUN**

Crl.O.P.(MD) No.15387 of 2023

A.Balaiah

... Petitioner

Vs.

1.The Superintendent of Police,
Virudhunagar District,
Virudhunagar.

2.The Inspector of Police,
Crime Branch CID,
Virudhunagar District,
Virudhunagar.

3.The Inspector of Police,
District Crime Branch (DCB),
Virudhunagar District,
Virudhunagar.
Crime No.8 of 2023.

4.Santhakumari

5.Emersan @ Eliyesan

..Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C., to direct the first respondent to transfer the investigation of case in Crime No.8 of 2023 on the file of the third respondent Police to the



second respondent on the basis of the petitioner's representation dated 31.07.2023.

For Petitioner : Mr.T.Indrachithu
For R1 to R3 : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor

ORDER

This Criminal Original Petition is filed seeking for transfer of investigation in Crime No.8 of 2023 registered against the accused for the offence punishable under Sections 120B, 406, 420, 294(b) and 506(1) IPC, from the file of the third respondent Police to the second respondent.

2. It is submitted by the learned counsel appearing for the petitioner that though Police have registered a case in Crime No.8 of 2023 against the accused for the offence punishable under Sections 120(B), 406, 420, 294(b) and 506(1) IPC on a complaint given by the petitioner, there is no substantial progress in the investigation and the accused were also not arrested.



3. The learned Additional Public Prosecutor appearing for the official respondents submits that an FIR has been registered about 15 days ago and the Police have been making all the efforts to progress with the investigation and so far three witnesses were examined and the investigation is in progress.

4. Within two weeks is not possible to consider whether the investigation is being proceeded properly and whether it requires to be transferred to any other Police. One of the grievance of the petitioner is that on 21.11.2022, when he has filed a complaint before the Police, it was not accepted and only on the directions of the learned Magistrate, the case was taken up. The other grievance of the petitioner is that the respondents Police are not arresting the accused and that the accused are freely moving in the Society. The petitioner cannot compel the respondents Police to arrest the accused as the Police are at liberty to effect the arrest, depending upon the nature and stage of the investigation, more particularly, if the accused are required for custodial interrogation, they will effect the arrest.

5. Subsequent to the amendment in Criminal Procedure Code, so far as 41(A) Cr.P.C is concerned, the Police are not required to arrest the



persons for the offence for which the sentence is less than seven years, unless it is mandatory in exceptional circumstances. In view of the above, not arresting the accused cannot be a basis to assist the investigation and therefore, the request of the petitioner cannot be considered.

6. The learned Additional Public Prosecutor appearing for the official respondents submits that within two months, the Police will complete the investigation.

7. In view of the above, the petitioner has not made out any grounds for transferring the investigation. Accordingly, this Criminal Original Petition is disposed of directing the respondents Police to complete the investigation and file the final report as quickly as possible not later than two months from the date of receipt of a copy of this order.

Index : Yes/No
Internet : Yes/No
ssb

31.08.2023



WEB COPY

CrI.O.P.(MD)No.15387 of 2023



To

- 1.The Superintendent of Police,
Virudhunagar District,
Virudhunagar.
- 2.The Inspector of Police,
Crime Branch CID,
Virudhunagar District,
Virudhunagar.
- 3.The Inspector of Police,
District Crime Branch (DCB),
Virudhunagar District,
Virudhunagar.
Crime No.8 of 2023.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



WEB COPY



CrI.O.P.(MD)No.15387 of 2023

DR.D.NAGARJUN. J.

ssb

CrI.O.P.(MD)No.15387 of 2023

31.08.2023