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CrI.O.P No.216 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CrI.O.P No.216 of 2024

Gopi

S/o.Periyasamy

... Petitioner

vs.

1. State represented by
Inspector of Police,
Pennadam Police Station,
Cuddalore District.
Crime No.452/2022

2. The Inspector of Police,
CBCID Police Station,
Cuddalore District,
Cuddalore.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the first respondent to transfer the case in Crime No.452 of 2022 on the file of Inspector of Police, Pennadam Police Station, Cuddalore District to second respondent CBCID to conduct further investigation into the matter in accordance with law.

For Petitioner : Mr.M.Velmurugan



Crl.O.P No.216 of 2024

For Respondents : Mr.A.Damodaran
Additional Public Prosecutor

ORDER

This petition has been filed seeking for transfer of investigation from the file of first respondent pending in Crime No.452 of 2022 to some other investigating agency.

2. Heard Mr.M.Velmurugan, learned counsel for petitioner and Mr.A.Damodaran, learned Additional Public Prosecutor appearing for respondents.

3. The case of the petitioner is that there was an election dispute with the accused persons which included five named persons and two identified North Indian persons whose names were not known. It is alleged that they had assaulted the father of the petitioner brutally with iron rod and wooden log. The petitioner's father sustained serious injuries and succumbed to injuries. The petitioner and his wife, who were present in the scene of crime attempted to prevent the assault and they were also attacked by the accused persons and they also sustained injuries. They



Cr.L.O.P No.216 of 2024

were admitted in the Government Hospital, Virudhachalam, on 12.05.2022 and they were taking treatment as inpatient till 17.05.2022.

4. Based on the above incident, a complaint came to be given to the first respondent and a First Information Report was registered in Crime No.452 of 2022 for offences u/s.147, 148, 294(b), 323, 324, 506(ii) and 302 IPC.

5. The further case of the petitioner is that his statement and his wife's statement were recorded by the investigation officer u/s.161(3) Cr.P.C. They have narrated the entire incident as eye witnesses. However, all of a sudden, the name of A4 viz., Subramani and one of the identified North Indian person was removed/deleted from the case. That apart, a statement u/s.164 Cr.P.C. was also recorded before the Magistrate and it is only based on this statement given by one Sangeetha, who is the wife of the petitioner, the deletion of the names of the accused persons had taken place.

6. In view of the same, the petitioner is apprehending that



Cr.L.O.P No.216 of 2024

investigation has not been properly conducted in this case and considering the seriousness of offence that was committed, the petitioner has sought for transfer of investigation to some other agency.

7. Learned Additional Public Prosecutor submitted that the investigation was conducted in this case in a proper manner. Learned Additional Public Prosecutor further submitted that the First Information Report was initially registered against five named accused persons and two known accused persons. During the course of investigation, the statements of witnesses were recorded u/s.161(3) Cr.P.C. The statement of petitioner's wife was also recorded before learned Judicial Magistrate, Tittakudi, u/s.164 Cr.P.C. Based on all the materials that were collected in the course of investigation, the name of A4 and yet another identified unnamed North Indian person was deleted. Further, the name of Kayalvizhi was added as A6 and Krishna (Juvenile) was added as A7. Learned Additional Public Prosecutor submitted that investigation was completed and final report was laid before the Judicial Magistrate, Tittakudi and the same is yet to be taken on file.

8. This Court has carefully considered the submissions made on



Cr.L.O.P No.216 of 2024

either side and the materials available on record.

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9. The final report that has been filed by the respondent police is yet to be acted upon by the Court below. The Court below will broadly have the following options after applying its mind on the final report:

- (a) The Court below can order for further investigation if it is not satisfied with the investigation;
- (b) The Court below can take the final report on file and order notice to the *de facto* complainant with respect to the names of the accused persons, who have been dropped in the final report; and
- (c) The Court below can refuse to act upon dropping the names of the accused persons and issue summons to those accused persons also.

10. The Code of Criminal Procedure and the settled law as enunciated by the Apex Court, gives a very wide power and discretion to the trial Court to deal with the final report/negative report. When such a wide power is available to the Court below, it is unnecessary for this Court to exercise its jurisdiction u/s.482 Cr.P.C. at this stage. This is more so since the petitioner is seeking for transfer only on the ground that the



CrI.O.P No.216 of 2024

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names of two accused persons were dropped while filing the final report.

This issue can very well be dealt with by the Court below and if, ultimately, the petitioner is aggrieved by dropping of those names, the Court below will give an opportunity to file a protest petition. In view of the same, it is not necessary for this Court to exercise its jurisdiction at this stage and in any event, the transfer of investigation is not warranted in this case. Except giving this clarity, no further orders can be passed by this Court.

This Criminal Original Petition is disposed of in the above terms.

05.01.2024

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
gm



CrI.O.P No.216 of 2024

To
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- 1.The Inspector of Police
Pennadam Police Station
Cuddalore District
Crime No.452/2022
- 2.The Inspector of Police
CBCID Police Station
Cuddalore District
Cuddalore
- 3.The Public Prosecutor,
High Court of Madras,
Madras.



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Crl.O.P No.216 of 2024

N. ANAND VENKATESH., J

gm

Crl.O.P No.216 of 2024

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