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CrI.O.P.No.23010 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2024

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CrI.O.P.No.23010 of 2024

and

CrI.M.P.No.15004 of 2024

K.Krishnamoorthy

... Petitioner

Vs.

1.The Inspector General of Police,
Central Zone, Thiruchirapalli.

2.The Superintendent of Police,
District Police Office,
Ariyalur, Ariyalur District.

3.Madhan
Deputy Superintendent of Police,
Special Investigation Officer,
Crime No.3 of 2019,
District Crime Branch, Ariyalur District.

4.The Inspector of Police,
District Crime Branch,
Ariyalur District,
Crime No.3 of 2019.

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C.,
(or) 528 BNSS, 2023, to call for the records FAD further action dropped
final report dated 11.08.2021 report filed by Madhan Deputy



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Superintendent of Police in Crime No.3 of 2019 on the file of the District Crime Branch of Ariyalur set aside the same as illegal and consequently direct the first respondent to appoint independent competent investigation officer and further investigate the case in Crime No.3 of 2019 on the file of the fourth respondent herein and file a final report under Section 173(2) Cr.P.C., in accordance with law to secure the ends of justice.

For Petitioner : Mr.R.Sankarasubbu
For Respondents : Mr.S.Sugendran
Additional Public Prosecutor
for R1, R2 and R4

ORDER

This Criminal Original Petition is filed challenging the final report dated 11.08.2021 in Crime No.3 of 2019 on the file of the fourth respondent/Police and consequently direct the first respondent to appoint competent investigation officer to further investigate the case in Crime No.3 of 2019 and to file a final report.

2. The petitioner lodged a complaint alleging that he himself, along with his family members, borrowed a sum of Rs. 2,10,00,000/- from the City Union Bank, Vilanthai Branch, Aandimadam and the



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Manager of the said Bank viz., Suriyanarayanan (A1), along with other accused person viz., Veeravel (A2), conspired together and falsely created forged documents and misappropriated a sum of Rs.1,28,30,395/- without disbursing the said amount to the petitioner. On receipt of the complaint, the fourth respondent herein i.e., Inspector of Police, District Crime Branch, Ariyalur registered FIR in Crime No.3 of 2019 for the offences under Section 120-B, 419, 420, 409, 424, 465, 466, 468, 477A and 506-Part I of IPC.

3. Learned counsel appearing for the petitioner submitted that, though quash petitions and the anticipatory bail petitions are filed by the accused persons, they were dismissed by this Court, and the Investigating Officer concerned had failed to secure the accused persons and investigate the matter. Thereafter, for the reasons best known to the Investigating Officers, the complaint was closed as 'Further Action Dropped' and closure report was also filed in Crime No.3 of 2019. In fact, the petitioner already filed petition for transfer of investigation in Crl.O.P.No.3821 of 2021 and this Court, by an order dated 26.02.2021, directed the Investigating Officer to complete the investigation within a



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period of three months. Therefore, the petitioner submitted a detailed representation before the Inspector General of Police, Central Zone, Trichy and on receipt of the same, the Inspector General of Police directed the Deputy Superintendent of Police, Ariyalur, to conduct further investigation in Crime No.3 of 2019.

3.1. While that being so, again the Deputy Superintendent of Police, Ariyalur, submitted a report stating that there are no materials available to conduct further investigation and closed the F.I.R. When specific allegations are made out to attract the offences as registered by the fourth respondent the Inspector of Police, District Crime Branch, Ariyalur, as against the accused persons, for the reasons best known to the Investigating Officers, the FIR was closed as 'Further Action Dropped'. In fact, in the closure report, the Police recorded the statements of the witnesses and it clearly constitutes the offences as such, and hence, the Investigating Officer ought not to have closed the FIR.

3.2. After considering all the facts and circumstances, the Inspector General of Police, Trichy, directed the Superintendent of



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Police, Ariyalur District to appoint a new Investigating Officer to conduct further investigation. Accordingly, the Superintendent of Police, Ariyalur, appointed the Deputy Superintendent of Police, Ariyalur to conduct re-investigation in Crime No.3 of 2019. Unfortunately, the Deputy Superintendent of Police, Ariyalur also, without conducting any re-investigation mechanically on the materials placed on record, and again closed the FIR.

4. Per contra, the learned Additional Public Prosecutor appearing for the respondents 1, 2 and 4 submitted that, after registration of the FIR, the fourth respondent - the Inspector of Police, District Crime Branch, completed the investigation and closed the same as "dropped further action". Accordingly, the Investigating Officer filed the closer report on 05.06.2021 before the learned Judicial Magistrate No.II, Jayamkondan. Instead of filing any protest petition to the closure report, the petitioner submitted representation before the Inspector General of Police, Trichy for re-investigation. The said request was considered and the Superintendent of Police, Ariyalur, was directed to appoint another Investigating Officer to conduct re-investigation. Accordingly, by an



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order dated 30.06.2021, the Deputy Superintendent of Police, Ariyalur, was appointed by the Superintendent of Police, Ariyalur, for re-investigation in Crime No.3 of 2019. The Investigating Officer conducted detailed re-investigation and again upheld the report filed by the earlier Investigating Officer. Therefore, there is no investigation pending either on the file of the Inspector of Police, District Crime Branch, Ariyalur or on the file of the Deputy Superintendent of Police, Ariyalur, for transferring the case. If at all the petitioner is aggrieved by the closure report, the petitioner can very well approach the concerned Court by way of protest petition in the manner known to law. Therefore, he prayed for dismissal of this present petition.

5. Heard Mr.R.Sankarasubbu, learned Counsel appearing for the petitioner and Mr.S.Sugendran, learned Additional Public Prosecutor appearing for the respondents 1, 2 and 4.

6. It is seen from the records that the issue on hand has already been considered by this Court in Crl.O.P.No.14609 of 2021, by order dated 30.08.2022, wherein, this Court considered the closure report



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submitted by the Deputy Superintendent of Police, Ariyalur, dated 11.08.2021 and leave was also granted by this Court to file a protest petition before the concerned Court, if the petitioner is aggrieved by the closure report. The relevant portion of the said order is extracted hereunder:

“6. The petitioner is the complainant and he lodged complaint on the allegation that he along with his family members availed loan from the City Union Bank, Vilanthai Branch, Aandimadam, Ariyalur District. While approaching the first accused viz., the Manager of the said Bank, to avail loan, he directed the petitioner to approach second accused for submission of documents. The petitioner applied for overdue loan and loan for construction of OSL building as follows :-

i) Loan A/c. No.512020010016204 to the tune of Rs.35,00,000/- in the name of Kavidharini Enterprises.

ii) Loan A/c. No.512020010016011 to the tune of Rs.35,00,000/- in the name of Srivaraha Steels.

iii) Loan A/c. No.512020010015988 to the tune of Rs.40,00,000/- in the name of Kavidharini Agencies

iv) Loan A/c. No.501812080021212 to the tune of Rs.1,00,00,000/- in the name of M.Gowthami.

However, the petitioner received only a sum of Rs.22,80,000/- out of Rs.35,00,000/- and the remaining amount of Rs.12,20,000/- was misappropriated by the accused persons. According to the petitioner, a sum of Rs.1,28,30,395/- has been misappropriated by the accused persons and the petitioner was disbursed only the remaining amount out of Rs.2,10,00,000/-.

7. After registration of FIR, the Inspector of Police, District Crime Branch, Ariyalur conducted detail investigation. He had examined 19 witnesses and after



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recording their statement under Section 161 of Cr.P.C., found that the petitioner availed loan in the name of Sri Varaha Steels to the tune of Rs.35,00,000/- and thereafter in addition to that availed a sum of Rs.25,00,000/-. Even before availing the said loan, in the year 2016, 2017 & 2018, the petitioner availed nine loans to the tune of Rs.54,40,000/-. Thereafter from the year 2017 viz., between 20.02.2017 to 23.01.2018, there was a business transactions between the petitioner and the second accused. In the said transactions, through bank account there was money transactions to the tune of Rs. 52,36,495/- to the petitioners family members account and also to the second accused account. The crux of the allegation is that without any signature of the petitioner in the loan application and the bank transaction form, they transferred the amount from the loan account. But all the transactions were happened only with the knowledge of the petitioner herein. Only on instructions of the petitioner, all the transactions have been done. Only after availing the loan, the petitioner had put up construction to the value of Rs.1,98,00,000/-. Therefore, no offence is made out as against the accused persons and closed the FIR as further action dropped.

8. The petitioner did not file any protest petition against the closure report. However, he submitted detail representation before the Inspector General of Police, Trichy, for re-investigation. The Inspector General of Police considered the request made by the petitioner and directed the Superintendent of Police, Ariyalur, to appoint another Investigating officer to conduct re-investigation in Crime No.3 of 2019. Accordingly, the Superintendent of Police, Ariyalur, appointed the Deputy Superintendent of Police, Ariyalur as Investigating Officer to conduct re-investigation. As directed by the Superintendent of Police, the Deputy Superintendent of Police again examined the witnesses and on perusal of records concluded that no offence is made out as against the accused persons, since the petitioner along with his family members availed loan to the tune of



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Rs.2,10,00,000/- for development of their business and also for construction. They put up construction for the value of Rs.1,98,00,000/- and as such only on the instruction and knowledge of the petitioner all the transactions were happened between the bank and petitioner and his associates.

9. The said closure reported dated 11.08.2021, submitted before the learned Judicial Magistrate No.II, Jayamkondan, Ariyalur. Therefore, the judgments cited by the learned counsel appearing for the petitioner are not helpful to the case on hand, since no investigation is pending on the file of any of the Investigating Officer in Crime No.3 of 2019. That apart, if the complainant is not satisfied with the closure report submitted by the Investigating Officer, he can very well approach the concerned Court to protest the closure report in the manner known to law.

10. In view of the above discussion, this Court is not inclined to entertain this petition. However, the petitioner is at liberty to file protest petition on the closure report submitted by the Deputy Superintendent of Police, Ariyalur, dated 11.08.2021, in the manner known to law, if so advised. Accordingly, this Criminal Original Petition is dismissed.”

7. It is further seen that, challenging the very same final report dated 11.08.2021, one Gowthami w/o D.Maruthai, who is one of the complainant in Crime No.3 of 2019, approached this Court by way of writ petition in W.P.No.22396 of 2023 and this Court, by order dated 14.08.2023, while taking into consideration the earlier order of this Court in Crl.O.P.No.14609 of 2021 dated 30.08.2022, directed the petitioner therein to file protest petition before the concerned Court and work out



her remedy.

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8. It is clear from the above facts that the attention of this Court was already drawn about the closure report dated 11.08.2021 and leave was also granted to the petitioner file a protest petition before the concerned Court, if the petitioner is aggrieved by the closure report. When such a direction has already been issued by this Court earlier in the proceedings under Section 482 Cr.P.C., there is no scope for this Court to pass yet another order for the very same cause of action.

9. Even then, admittedly, in the case on hand, the Investigating officer has already filed the negative final report before the Court concerned and the learned Magistrate has to proceed further and initiate action and send notice to the *de-facto* complainant, then the *de-facto* complainant has to co-operate before learned Magistrate by way of filing protest petition and after enquiry, the learned Magistrate has got power to decide the matter. Therefore, there cannot be parallel proceedings, one, before the learned Magistrate and another with the Superior Officer of the Department. Therefore, it is for the petitioner to file protest petition against the order of the investigating officer before the concerned Court



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and work out his remedy. If such protest petition is filed, the petitioner is directed to co-operate for early disposal of the said petition and the learned Magistrate is directed to complete the proceedings within a period of three months from the date of receipt of a copy of this order.

10. Hence, this Criminal Original Petition is dismissed.
Consequently, connected miscellaneous petition is closed.

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Index : Yes/No
Neutral Citation Case : Yes/No
Speaking Order : Yes/No
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To

1. The Judicial Magistrate No.II,
Jayamkondam.
- 2.The Inspector General of Police,
Central Zone,
Thiruchirapalli.
- 3.The Superintendent of Police,
District Police Office,
Ariyalur, Ariyalur District.



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4. Madhan
Deputy Superintendent of Police,
Special Investigation Officer,
District Crime Branch, Ariyalur District.
5. The Inspector of Police,
District Crime Branch,
Ariyalur District,
6. The Public Prosecutor,
High Court, Madras.



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P.VELMURUGAN, J

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