



CrI.O.P.(MD) No.1283 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.02.2024

CORAM

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P (MD) No.1283 of 2024

and

CrI.M.P.(MD) No.885 of 2024

C.Sarath

...Petitioner

vs

**1.The Superintendent of Police,
Nagercoil,
Kanyakumari District.**

**2.The Inspector of Police,
Kottar Police Station,
Nagercovil,
Kanyakumari District.
Crime No.293 of 2023**

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying, to issue a direction to transfer the investigation in Crime No.293 of 2023 on the file of the 2nd Respondent Police to some other investigating Agency.

For Petitioner : Mr.KA.Ramakrishnan



WEB COPY



Crl.O.P.(MD) No.1283 of 2024

For Respondents : Mr.B.Thanga Aravindh
Government Advocate (Crl.side)

ORDER

The learned Counsel for the Petitioner submits that the Petitioner is the defacto complainant. The Petitioner's father, Chelladurai is a shareholder of APPTA market in Nagerkovil. He was allotted a shop. He was dealing with plantain business. The Accused in this case are the present office bearers of APPTA market and they wanted to evict the Petitioner from the shop. If there are dispute, it is for the office bearers to approach the Civil Court and evict the Petitioner by due process of law. Instead, the present office bearers of APPTA market trespassed and damaged the roof of the shop and also staircase. They have damaged the property to the tune of Rs. 4,00,000/- and Rs.1,00,000/- was missing. The Petitioner had given a complaint to the Kottar Police Station, Nagerkoil. Based on which, F.I.R. in Crime No.293 of 2023 was registered for the offences punishable under Sections 448, 427, 379 and 109 I.P.C.



Crl.O.P.(MD) No.1283 of 2024

2.It is the further submission of the learned Counsel for the Petitioner that the act of the Accused, who were numbering 7, had attracted provisions of Tamil Nadu Public Property (Prevention of Damage and Loss) Act, which was not invoked in this case. Also the second Respondent had not secured the persons mentioned in the F.I.R. Therefore, the Petitioner feels that the second Respondent had not conducted prompt investigation. In the light of the above, he seeks to withdraw the investigation in Crime No.293 of 2023 from the file of the second Respondent to any other Officer or Agency.

3.The learned Government Advocate (Criminal Side) on instructions of the Respondent Police, submits that Accused Nos.1 to 7 obtained anticipatory bail. He had produced the CD file also.

4.On perusal of the CD file, it is found that the Investigation Officer had proceeded with the investigation by inspecting the scene of occurrence and preparing the rough sketch and observation mahazar, but there are no statement of the witnesses. Further, it is found that the bail bond executed by the accused is found in the CD file. As per the status report filed by the



CrI.O.P.(MD) No.1283 of 2024

Investigation Officer, the investigation was carried out by Jeyakumar, the Sub Inspector of Police, who had been relieved and posted to Anjugramam Police Station. The investigation is now proceeded by the Investigation Officer, Sathyasoban. From the status report, it is found that the offences alleged in the FIR had been altered and the accused had been granted bail. In the status report, the Investigation Officer denies that there is no theft as claimed in the FIR.

5.The learned Government Advocate (Crl.side), on instructions of the second Respondent, would submit that the APPTA Market was not functioning from 07.10.2023 onwards. Therefore, the alleged occurrence as was mentioned by the Petitioner is not true.

6.From what had been stated by the learned Government Advocate (Crl.side) and on perusal of the CD file, it is found that the Investigation Officer had decided to drop the investigation as false.

7.The learned Counsel for the Petitioner denies the submission of the learned Government Advocate (Crl.side) stating that the Petitioner as



CrI.O.P.(MD) No.1283 of 2024

Complainant did not co-operate with the pending investigation. The Petitioner insists that his shop was damaged with JCB machine. Therefore, the attempt of the Investigation Officer to close the investigation cannot at all be accepted.

8.The first Respondent/Superintendent of Police, Kanyakumari District is directed to withdraw the case in Crime No.293 of 2023 from the file of the second Respondent, peruse the investigation file, nominate a Senior Officer to supervise the investigation and to hand over the investigation to a person of impartial investigation skills to complete the investigation within 3 months. If they intend to drop the investigation, notice has to be sent to the *defacto* Complainant. Also, the Investigation Officer shall follow the procedure stated in the reported ruling of the Hon'ble Supreme Court in the case of ***Lalitha Kumari Vs. State of Uttar Pradesh*** reported in ***(2014) 2 SSC 1*** and the case of ***Arnesh Kumar Vs. State of Bihar and another*** reported in ***2014 (8) SCC 273*** issuing summons to the witnesses mentioning the time and date for their appearance.



CrI.O.P.(MD) No.1283 of 2024

With the above directions, this Criminal Original Petition is disposed of. Consequently, connected Miscellaneous Petition is closed.

Internet: Yes./No

29.02.2024

Index: Yes/No

mm

To

- 1.The Superintendent of Police,
Nagercoil,
Kanyakumari District.
- 2.The Inspector of Police,
Kottar Police Station,
Nagercovil,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.O.P.(MD) No.1283 of 2024

SATHI KUMAR SUKUMARA KURUP, J.

mm

CRL.O.P (MD) No.1283 of 2024

29.02.2024