



W.P.(MD) No.5574 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.03.2024

CORAM

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

**W.P.(MD) No.5574 of 2024**

Sridhar

... Petitioner

Vs.

1.The Commissioner of Police,  
O/o. the Commissioner of Police,  
Mc Donalds Road,  
Melapudur,  
Cantonment, Trichy.

2.The Inspector of Police,  
Central Crime Branch,  
Trichy District.

3.Dhinesh  
Accountant,  
O/o.Subham Freight Carriers Limited,  
Annamalai Nagar Main Road,  
Woriyur, Trichy.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India praying for issuance of Writ of Mandamus, directing the 1<sup>st</sup> Respondent to consider the Petitioner's representation dated 28.12.2023 for change of Investigation Officer in investigating the complaint in C.No.1227 of 2023 on the file of the 2<sup>nd</sup> Respondent within a time frame as fixed by this Court.



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For Petitioner : Mr.M.Saravanan

For R1 & R2 : Mr.B.Thanga Aravindh  
Government Advocate (Crl. Side)

### **ORDER**

The learned Counsel for the Petitioner would submit that the Petitioner had filed this Writ Petition seeking Writ of Mandamus against the first and second Respondents, based on the complaint of the third Respondent.

2. It is the contention of the learned Counsel for the Petitioner that the Petitioner was previously employed as a Branch in-charge of Subham Freight Carriers Private Transport Limited. As per the complaint given by the third Respondent who is the Accountant of the Subham Freight Carriers Private Transport Limited, the Petitioner is alleged to have misappropriated the money without lending vehicles. It is the contention of the learned Counsel for the Petitioner that the Petitioner had co-operated with the enquiry conducted by the second Respondent and if the second Respondent had summoned the vehicle's owners, he could have very well arrived at a conclusion that the alleged complaint against the present Petitioner is false. He has not done so far. Therefore, the Petitioner seeks direction against the Respondent 2.



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3. The learned Government Advocate (Crl.Side) would submit that the Petitioner is alleged to have worked as a Branch In-charge of Subham Freight Carriers Private Transport Limited, Coimbatore. The second Respondent had issued summons to the Petitioner. The Petitioner had not appeared. Only on appearance of the Petitioner, the second Respondent will be able to proceed further. Instead appearing before the second Respondent, the Petitioner approached this Court.

4. The learned Counsel for the Petitioner disputes the submission of the learned Government Advocate (Crl. Side) claiming that the Petitioner had appeared on 18.12.2023 and 20.12.2023 and also he had given undertakings that he will appear as and when required.

5. In the light of the submission made by the learned Counsel for the Petitioner and the learned Government Advocate (Crl. Side) and in the light of the reported rulings of the Hon'ble Supreme Court in the case of ***Lalitha Kumari Vs. State of Uttar Pradesh***, reported in **(2014) 2 SSC 1** and ***Arnesh Kumar Vs. State of Bihar and another*** reported in **2014 (8) SCC 273**, the first and second Respondents are directed to act as per the



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rulings of the Hon'ble Supreme Court in the above stated cases by issuing summons to the Petitioner giving out the date and time of his appearance.

6. It is to be pointed out that as per the reported rulings of the Hon'ble Supreme Court in the case of **Arnesh Kumar Vs. State of Bihar and another** reported in **2014 (8) SCC 273**, the accused for the offence attracting punishment less than seven years need not to be arrested. The accused may be issued with summons under Section 41A of Cr.P.C.

7. The Petitioner is directed to co-operate with the pending investigation/enquiry. If FIR is registered, the submission of the Petitioner to verify the vehicle owners shall also be recorded to find out whether without hiring the vehicles, the Petitioner had indulged in misappropriation of amount.

8. Accordingly, this Writ Petition is closed. No costs.

08.03.2024

Index: Yes/ No  
Neutral Citation: Yes / No  
Speaking Order / Non-Speaking Order  
JEN



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To :

- 1.The Commissioner of Police,  
O/o. the Commissioner of Police,  
Mc Donalds Road,  
Melapudur, Cantonment, Trichy.
- 2.The Inspector of Police,  
Central Crime Branch,  
Trichy District.
- 3.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



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**SATHI KUMAR SUKUMARA KURUP, J.**

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