



CRL OP(MD). No.10641 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 18.07.2024

CORAM

THE HON'BLE MR.JUSTICE B.PUGALENDHI

CRL OP(MD). No.10641 of 2024

Sivakumar

... Petitioner

Vs

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

2. The Inspector of Police,
District Crime Branch, Thanjavur,
Thanjavur District.

... Respondents

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to withdraw and transfer the investigation in Crime No. 7/2024 on the file of the 2nd respondent to any other competent investigation agency and direct the Investigation Agency to complete the investigation and file final report within the time

For Petitioner : Mr.K.Chellapandian
for Mr.Baskarapandiyan. A.K

For R-1 & R-2 : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor



WEB COPY



CRL OP(MD), No.10641 of 2024

ORDER

This criminal original petition has been seeking a direction to transfer the investigation in Crime No. 7/2024 on the file of the 2nd respondent to any other competent investigation agency.

2. The learned Senior Counsel appearing for the petitioner submits that the accused has cheated the petitioner to the tune of Rs. 11,25,69,683/-. The petitioner has lodged a complaint before jurisdictional police on 06.01.2022. Since the police has not acted upon the complaint, the petitioner herein has lodged a complaint before the higher officials and has also filed an application before the learned Judicial Magistrate No.II, Thanjavur, under Section 156(3) of Cr.P.C. The learned Judicial Magistrate No.II, Thanjavur, has referred the complaint to the second respondent for an enquiry and the second respondent has conducted an enquiry and he had filed a closure report before the learned Judicial Magistrate, Thanjavur, on 16.06.2022, stating the complaint is a false one. A counter complaint was also registered in Crime No.13 of 2022 as against the petitioner for the offence under



CRL OP(MD). No.10641 of 2024

Sections 406, 420 and 506(ii) of IPC. The learned Judicial Magistrate No.II, Thanjavur, has also accepted the report. As against the orders of the learned Judicial Magistrate, Thanjavur, the petitioner herein has approached this Court in Crl.R.C.No.643 of 2023 and the same was allowed by order dated 19.01.2024, directing the respondent police to conduct a proper investigation and also to conduct the custodial interrogation. The said order was challenged before the Hon'ble Supreme Court in S.L.P.(Crl)No.2623 of 2024 and the same was disposed as under:

“ We are not inclined to interfere with the order passed by the High Court on merit. All the same, the learned Counsel appearing for the petitioner has pointed that in para 15 of the impugned order, the observations of the High Court are:

“ Since this case requires the custodial interrogation of the accused regarding huge amount of cheating, criminal breach of trust and criminal misappropriation said to have been committed by the accused, this Court hereby directs that investigation officer to register the case.”

We may state that this may not be taken as a direction for the Investigation Agency to arrest the petitioner and the arrest may only be made when the custodial interrogation is required. We may also observe at this juncture that learned Counsel for the State of Tamil Nadu, Mr.Saharish Subramanian, Advocate also appears before us and has in any case



WEB COPY



CRL OP(MD), No.10641 of 2024

given a categorical statement today that presently the investigation agency has no plans to arrest the petitioner.

In view of the above, the special leave petition is accordingly disposed of.”

3. It appears that the respondent police has not proceeded with the case even after the orders of this Court in Crl.R.C.No.643 of 2024 by order dated 19.1.2024. The petitioner has lodged a complaint before the Superintendent of Police on 21.02.2024. Only thereafter, the complaint of the petitioner was acted upon and they have registered a case and they have proceeded with the case. The petitioner has now filed this application that even after registration of the case, there is no progress in the investigation.

4. The learned Additional Public Prosecutor on instruction from the respondent police submits that the investigation in this case was originally monitored by the Deputy Superintendent of Police, namely, Manoharan and he is transferred. Now, the Deputy Superintendent of Police, namely, Dhanushya is conducting the investigation.

5. Considering the submissions of the learned Additional Public



CRL OP(MD), No.10641 of 2024

Prosecutor that the Deputy Superintendent of Police, namely, Dhanushya, who is appointed recently is conducting the investigation, this Criminal Original Petition is disposed of with a direction to the Investigation Officer to conduct the investigation in a fair and proper manner and to conclude the same as expeditiously as possible.

18.07.2024

NCC : Yes/No

Index : Yes/No

Internet: Yes

jbr

To

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

2. The Inspector of Police,
District Crime Branch, Thanjavur,
Thanjavur District.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



CRL OP(MD), No.10641 of 2024

B.PUGALENDHI,J

jbr

Order made in
CrI.O.P.(MD)No.10641 of 2024

18.07.2024