



W.P.(MD)No.24045 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 15.11.2024

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD) No.24045 of 2023

S.Gandhimathi @ Kanthimadi

... Petitioner

Vs.

1. The State Rep. by
The Superintendent of Police,
Sivagangai District,
Sivagangai.

2. The Deputy Superintendent of Police,
District Crime Branch,
Sivagangai District.

3. The Deputy Superintendent Of,
Police, Tirupathur,
Sivagangai District.

4. The Inspector of Police,
Singampunari Police Station,
Sivagangai District.

5. The Inspector of Police,
CBCID - Sivagangai District,
Sivagangai.

... Respondents



W.P.(MD)No.24045 of 2023

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st Respondent to transfer the investigation of the petitioner's Complaints on the file of the Respondents 2 to 4 to the file of the 5th Respondent or to any other competent Investigation Agency on the basis of the Petitioner's representation dated 27.07.2023.

For Petitioner : Mr.M.Mohammed Hussain

For Respondents : Mr.A.Albert James
Government Advocate (Crl.Side)

ORDER

This writ petition has been filed for the issue of a writ of mandamus directing the first respondent to transfer the investigation of the complaint given by the petitioner which is pending on the file of the respondents 2 to 4 to the file of the fifth respondent or any other competent agency.

2.Heard Mr.H.Mohammed Hussain, learned counsel for the petitioner and Mr.A.Albert James, learned Government Advocate appearing on behalf of the respondents.



W.P.(MD)No.24045 of 2023

3.The learned Government Advocate, on instructions, submitted that the complaint given by the petitioner was enquired in C.S.R.No.98 of 2021 and it was closed on 07.05.2021.

4.The learned counsel for the petitioner submitted that there are three complaints given and one such complaint has been closed by the police.

5.In the considered view of this Court, if the petitioner has already given a complaint making out the cognizable offence and the same is not acted upon, the petitioner can always exercise the right given under Section 156(3) of CR.P.C. (Section 173(4) of B.N.S.S). That will give an effective remedy to the petitioner. The petitioner wants a complaint to be transferred to CBCID. Such transfer of complaint is not even contemplated under Cr.P.C. In the first place, the investigation will commence only when an FIR is registered. Without registration of an FIR, there is no scope for transferring investigation to some other agency.



W.P.(MD)No.24045 of 2023

6.In the light of the above discussion, liberty is granted to the petitioner to work out his remedy under Section 156(3) of Cr.P.C. (Section 173(4) of B.N.S.S) and proceed further in accordance with law.

7.This writ petition is disposed of in the above terms.

15.11.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
PKN

To

The Superintendent of Police,
Sivagangai District,
Sivagangai.

2. The Deputy Superintendent of Police,
District Crime Branch,
Sivagangai District.

3. The Deputy Superintendent Of,
Police, Tirupathur,
Sivagangai District.

4. The Inspector of Police,
Singampunari Police Station,
Sivagangai District.



W.P.(MD)No.24045 of 2023

5. The Inspector of Police,
CBCID - Sivagangai District,
Sivagangai.

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



WEB COPY



W.P.(MD)No.24045 of 2023

N.ANAND VENKATESH,J.

PKN

W.P.(MD)No.24045 of 2023

Dated: 15.11.2024