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CRL OP No. 26630 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 26-09-2025**

CORAM

**THE HONOURABLE MR JUSTICE N. SATHISH KUMAR**

**CRL OP No.26630 of 2025  
and CRL.MP.No.18068 of 2025**

P.Santhanaraj @ Balaiah

Petitioner(s)

Vs

1. The Commissioner of Police  
Avadi Police Commissionarate,  
Avadi, Chennai-600054.

2.The State rep. by  
The Inspector of Police  
E2-Thirupalaivanam Police Station,  
Ponneri Police Range  
Avadi Police Commissionarate

Respondent(s)

**PRAYER**

To transfer the investigation of Crime No.65 of 2025 from the file of 2nd respondent to CBCID police and to investigate the same.

For Petitioner(s): Mr.P.Sankaranarayanan

For Respondent(s): Mr.R.Vinothraja,  
Govt. Advocate (Crl. Side)



**ORDER**

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The petitioner seeks direction to transfer the investigation of Crime No.65 of 2025 from the file of second respondent to CBCID police and to investigate the same.

2. It is the case of the petitioner that a case and a counter case has been registered against 2 Fishermen group from the same Village regarding using of fishing net. The present petitioner, who is A1, seeks transfer of investigation.

3. The learned counsel for the petitioner submitted that the investigation agency has colluded with the other group and therefore, there is bias in investigation. Hence, he seeks transfer.

4. It is seen that a case and a counter case has been registered and at this stage investigation cannot be ordered to be changed. The investigation has to be conducted as per the Police Standing Order 566A. Further, the petitioner, who is an accused, cannot have any right to have a say in changing of investigation.



This has been clearly observed by the Apex Court in ***Romila Thapar vs. Union***

***of India*** reported in 2018 10 SCC 753. The relevant paragraph of the said

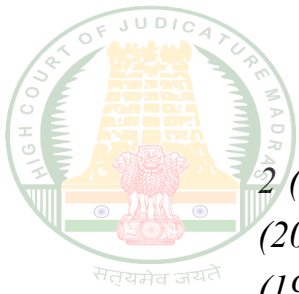
judgment is extracted hereunder:

*“21. Turning to the first point, we are of the considered opinion that the issue is no more res integra. In **Narmada Bai Vs. State of Gujarat and Ors.1**, in paragraph 64, this Court restated that it is trite law that the accused persons do not have a say in the matter of appointment of Investigating 1 (2011) 5 SCC 79 Agency. Further, the accused persons cannot choose as to which Investigating Agency must investigate the offence committed by them. Paragraph 64 of this decision reads thus:-*

*“64. .... It is trite law that accused persons do not have a say in the matter of appointment of an investigation agency. The accused persons cannot choose as to which investigation agency must investigate the alleged offence committed by them.”*  
(emphasis supplied)

*22. Again in **Sanjiv Rajendra Bhatt Vs. Union of India and Ors.2**, the Court restated that the accused had no right with reference to the manner of investigation or mode of prosecution. Paragraph 68 of this judgment reads thus:*

*“68. The accused has no right with reference to the manner of investigation or mode of prosecution. Similar is the law laid down by this Court in **Union of India v. W.N. Chadha3**, **Mayawati v. Union of India4**, **Dinubhai Boghabhai Solanki v. State of Gujarat5**, **CBI v. Rajesh Gandhi6**, **Competition Commission of India v. SAIL7** and **Janta Dal v. H.S. Choudhary.8**”* (emphasis supplied)



2 (2016) 1 SCC 1 1993 Supp. (4) SCC 260 4 (2012) 8 SCC 106 5  
(2014) 4 SCC 626 6 (1996) 11 SCC 253 7 (2010) 10 SCC 344 8  
(1991) 3 SCC 756

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23. Recently, a three-Judge Bench of this Court in *E. Sivakumar Vs. Union of India and Ors.*<sup>9</sup>, while dealing with the appeal preferred by the “accused” challenging the order of the High Court directing investigation by CBI, in paragraph 10 observed:

“10. As regards the second ground urged by the petitioner, we find that even this aspect has been duly considered in the impugned judgment. In paragraph 129 of the impugned judgment, reliance has been placed on *Dinubhai Boghabhai Solanki Vs. State of Gujarat*<sup>10</sup>, wherein it has been held that in a writ petition seeking impartial investigation, the accused was not entitled to opportunity of hearing as a matter of course. Reliance has also been placed in ***Narender G. Goel Vs. State of Maharashtra***<sup>11</sup>, in particular, paragraph 11 of the reported decision wherein the Court observed that it is well settled that the accused has no right to be heard at the stage of investigation. By entrusting the investigation to CBI which, as aforesaid, was imperative in the peculiar facts of the present case, the fact that the petitioner was not impleaded as a party in the writ petition or for that matter, was not heard, in our opinion, will be of no avail. That per se cannot be the basis to label the impugned judgment as a nullity.”

24. This Court in the case of ***Divine Retreat Centre Vs. State of Kerala and Ors.***<sup>12</sup>, has enunciated that the High 9 (2018) 7 SCC 365 10 Supra @ Footnote 5 11 (2009) 6 SCC 65 12 (2008) 3 SCC 542 Court in exercise of its inherent jurisdiction cannot change the investigating officer in the midstream and appoint an investigating officer of its own choice to investigate into a crime on whatsoever



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*basis. The Court made it amply clear that neither the accused nor the complainant or informant are entitled to choose their own Investigating Agency to investigate the crime in which they are interested. The Court then went on to clarify that the High Court in exercise of its power under Article 226 of the Constitution can always issue appropriate directions at the instance of the aggrieved person if the High Court is convinced that the power of investigation has been exercised by the investigating officer mala fide.*

*25. Be that as it may, it will be useful to advert to the exposition in **State of West Bengal and Ors. Vs. Committee for Protection of Democratic Rights, West Bengal and Ors.**<sup>13</sup>. In paragraph 70 of the said decision, the Constitution Bench observed thus:*

*“70. Before parting with the case, we deem it necessary to emphasise that despite wide powers conferred by Articles 32 13 (2010) 3 SCC 571 and 226 of the Constitution, while passing any order, the Courts must bear in mind certain self-imposed limitations on the exercise of these Constitutional powers. The very plenitude of the power under the said articles requires great caution in its exercise. Insofar as the question of issuing a direction to the CBI to conduct investigation in a case is concerned, although no inflexible guidelines can be laid down to decide whether or not such power should be exercised but time and again it has been reiterated that such an order is not to be passed as a matter of routine or merely because a party has levelled some allegations against the local police. This extraordinary power must be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility and instil confidence in investigations or where the incident may have*

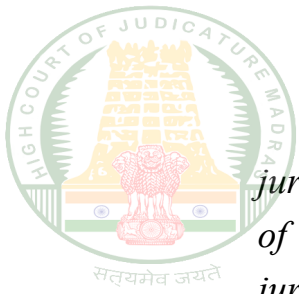


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*national and international ramifications or where such an order may be necessary for doing complete justice and enforcing the fundamental rights. Otherwise the CBI would be flooded with a large number of cases and with limited resources, may find it difficult to properly investigate even serious cases and in the process lose its credibility and purpose with unsatisfactory investigations.”*

*26. In the present case, except pointing out some circumstances to question the manner of arrest of the five named accused sans any legal evidence to link them with the crime under investigation, no specific material facts and particulars are found in the petition about mala fide exercise of power by the investigating officer. A vague and unsubstantiated assertion in that regard is not enough. Rather, averment in the petition as filed was to buttress the reliefs initially prayed (mentioned in para 7 above) – regarding the manner in which arrest was made. Further, the plea of the petitioners of lack of evidence against the named accused (A16 to A20) has been seriously disputed by the Investigating Agency and have commended us to the material already gathered during the ongoing investigation which according to them indicates complicity of the said accused in the commission of crime. Upon perusal of the said material, we are of the considered opinion that it is not a case of arrest because of mere dissenting views expressed or difference in the political ideology of the named accused, but concerning their link with the members of the banned organisation and its activities. This is not the stage where the efficacy of the material or sufficiency thereof can be evaluated nor it is possible to enquire into whether the same is genuine or fabricated. We do not wish to dilate on this matter any further lest it would cause prejudice to the named accused and including the co-accused who are not before the Court. Admittedly, the named accused have already resorted to legal remedies before the*



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*jurisdictional Court and the same are pending. If so, they can avail of such remedies as may be permissible in law before the jurisdictional courts at different stages during the investigation as well as the trial of the offence under investigation. During the investigation, when they would be produced before the Court for obtaining remand by the Police or by way of application for grant of bail, and if they are so advised, they can also opt for remedy of discharge at the appropriate stage or quashing of criminal case if there is no legal evidence, whatsoever, to indicate their complicity in the subject crime.*

*27. In view of the above, it is clear that the consistent view of this Court is that the accused cannot ask for changing the Investigating Agency or to do investigation in a particular manner including for Court monitored investigation. ....”*

5. Considering the facts and circumstances of the case and the above judgment of the Supreme Court, this Court is of the view that the petitioner cannot seek for change of investigation agency. Accordingly, the petition is dismissed. Consequently, connected miscellaneous petition is closed.

**26-09-2025**

pvs

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



To  
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Chennai-600054.

2.The Inspector of Police  
E2-Thirupalaivanam Police Station,  
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