



Crl.O.P.(MD)No.2126 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.03.2025

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THE HON'BLE MR.JUSTICE P.DHANABAL

Crl.O.P.(MD)No.2126 of 2025

S.Nambi

.... Petitioner

Vs.

**1. The Superintendent of Police
Tirunelveli District
Tirunelveli**

**2. The Deputy Superintendent of Police
Cheranmahadevi Division
Cheranmahadevi
Tirunelveli District**

**3. The Inspector of Police
Suthamalli Police Station
Suthamalli
Tirunelveli District**

**4. The Inspector of Police
CBCID, Tirunelveli District
Tirunelveli**

.. Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to transfer the investigation of the case in Crime No.325 of 2022 on the file of the third respondent and to conduct fair investigation within the stipulated period.



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For Petitioner : Mr.C.Saravanakumar

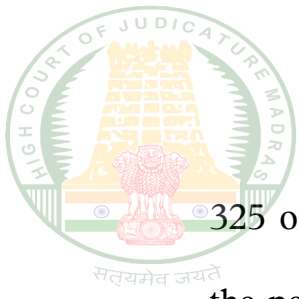
For Respondents : Mr.M.Sakthi Kumar
Government Advocate(Crl.Side)

ORDER

This Criminal Original Petition has been filed to transfer the investigation of the case in Crime No.325 of 2022 on the file of the third respondent and to conduct fair investigation within the stipulated period.

2. The learned counsel appearing for the petitioner would submit that the petitioner is the defacto complainant in this case and the petitioner lodged a complaint before the third respondent for house breaking and theft of gold and silver ornaments and the First Information Report has been registered in Crime No.325 of 2022 for the offences under Sections 454,457,380 of IPC. Thereafter no proper investigation was conducted and sofar the accused were not identified. The respondent police have not taken any steps to recover the stolen articles. The First Information Report has been registered in the year 2022 after lapse of 2 ½ years. The respondent police have not identified the accused. Thereafter the third respondent issued RCS notice to the petitioner stating Crime No.

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325 of 2022 closed as undetected and the same is against law. Therefore the petitioner filed a petition before this Court in Crl.O.P(MD) No. 4357 of 2024 for the relief of transfer of investigation from the file of the third respondent to some other investigation officer, while pendency of the above said case, the third respondent in a hurried manner served Refer Charge Sheet notice , thereafter the petitioner approached the learned Magistrate and filed protest petition. The learned Magistrate had directed the third respondent to conduct further investigation and thereby the said petition was closed by this Court on 12.04.2024. Even after that the respondent police have not conducted further investigation and therefore the case has to be transferred from the file of the third respondent to the fourth respondent.

3. The learned Government Advocate(Crl.Side) appearing for the respondents would submit that based on the complaint lodged by the petitioner, the third respondent registered a case in Crime No. 325 of 2022 for the offences under Sections 454,457,380 of IPC. The petitioner went to his brother's house on 25.12.2022 and after returning home on 27.12.2022 at about 8.00 pm., he came to know about the theft of jewels by broke open the house , therefore he lodged complaint and based on the same, the



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First Information Report has been registered. Infact the then Inspector of Police, took up the investigation and collected materials pertaining to the above case and immediately went to the place of occurrence and prepared observation mahazhar and rough sketch and also recorded the statement of witnesses and lot of suspects were brought to the police station and they were enquired and thereafter finger prints were also obtained and the finger prints were also sent to the Forensic Department. Among the persons suspected they never got any clue about the occurrence. Modus operandi of the criminal was obtained and they were enquired and among them some of them were in prison and whereabouts of some of the persons were not known. Therefore the then Inspector of police filed final report as undetected. Thereafter based on the order passed by the learned Magistrate the case was re-opened and enquired. The fresh investigation officer enquired three witnesses and recorded the statement and also taking steps to nab the real culprits involved in the said occurrence. Therefore the investigation is going on in a proper manner and they will find out the real culprits in this case within a short span of time, therefore at this stage if transfer of investigation is ordered it would affect the fair investigation in this case.



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4. Heard both sides and perused the materials available on record.

5. The petitioner is the defacto complainant in this case. Based on the complaint given by the third respondent they registered a case in Crime No. 325 of 2022 for the offences under Sections 454,457,380 of IPC and thereafter the matter was investigated by the then Inspector of Police and filed final report. Thereafter the learned Magistrate without accepting the final report directed to conduct further investigation and now the further investigation is in process. Further there is no allegation as against the present Investigation Officer and the only contention of the petitioner is that the respondent police is unable to detect the real accused and not even identified the accused. The third respondent also assured to find out the real accused in this case and further investigation is going on. Therefore at this stage if the investigation of the case is transferred to some other agency it will affect the fair investigation. There is no grievance as against the present investigation officer, therefore at this stage transfer of investigation is not proper and therefore the petition is liable to be dismissed.



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6. In the result, the Criminal Original Petition stands dismissed. The third respondent is directed to conduct proper investigation and take earnest efforts to find out the real accused in this case.

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NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

1. The Superintendent of Police
Tirunelveli District
Tirunelveli
2. The Deputy Superintendent of Police
Cheranmahadevi Division
Cheranmahadevi
Tirunelveli District
3. The Inspector of Police
Suthamalli Police Station
Suthamalli
Tirunelveli District
4. The Inspector of Police
CBCID, Tirunelveli District
Tirunelveli
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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P.DHANABAL,J.

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