



Crl.O.P.(MD)No.19915 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.01.2025

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THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.19915 of 2024

S.Muthaiah

... Petitioner

Vs.

The State,
Rep by the Inspector of Police,
Kayathar Police Station,
Thoothukudi District,
(Crime No.248 of 2023)

... Respondent

PRAYER : Criminal Original Petition filed under Section 528 of B.N.S.S., to file a Final Report before the learned Judicial Magistrate No.II, Kovilpatti in Crime No.248 of 2023 pending on the file of the respondent police within the time limit that may be stipulated by this Court.

For Petitioners	: Mr.K.Gurunathan
For Respondent	: Mr.A.Thiruvadi Kumar Additional Public Prosecutor

ORDER

This Court on 18.11.2024 has passed the following order:



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“The petitioner, who is aggrieved by the manner in which the investigation in Crime No.248 of 2023 is being carried out, has filed the present Criminal Original Petition.

2.The contention of the learned counsel for the petitioner is that Antony Raj and Anjalai created forged documents in favour of Moorthy and executed a sale deed by forging the death certificate, legal heirship certificate, and also creating a forged sale deed. The said Moorthy filed a Writ Petition in W.P.(MD)No.27998 of 2022 before this Court, challenging the order passed by the District Registrar, which cancelled Document No.3314 of 2020, a forged sale deed created using the petitioner's name.

3.This Court, in its writ jurisdiction, considered the contention of the said Moorthy that he is an innocent purchaser and not involved with Antony Raj and Anjalai in creating the forged documents. Thereafter, this Court granted limited protection to Moorthy, stating that no criminal action would be initiated against him, provided that he cooperates with the investigation and does not turn hostile during the trial. The forged Document No.3314 of 2020 is in Moorthy's possession, and it must be produced and sent for forensic examination, along with the connected documents available with the Sub-Registrar's Office. Further, the death certificate and legal heirship certificate must be collected and sent for examination. However, the respondent Police have not conducted any investigation. Hence, this Court passed an order in the writ proceedings on 23.01.2023. Despite this, the F.I.R. in this case was registered only on 19.07.2023, almost six months after the order of the writ Court. This delay reflects the scant respect shown by the respondent Police in investigating a case referred by the High Court.

4.The petitioner further submitted that in the writ proceedings, the death of Anjalai was recorded, despite the same, an F.I.R. has



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been registered against Anjalai, for reasons best known to the Police. The respondent Police have failed to conduct a proper investigation. Therefore, the petitioner has sought the filing of the final report within a stipulated time frame.

5.The learned Additional Public Prosecutor submitted that steps have already been taken in this case after the registration of the F.I.R., and notices have been sent to the Corporation and other authorities to produce the necessary documents. Once the documents are collected, they will be submitted for forensic examination. The learned Additional Public Prosecutor further submitted that, as of now, no steps have been taken against Moorthy. The respondent Police were under the assumption that Moorthy is completely protected and, as such, they have not taken any steps to seek the production of documents or any other materials from him.

6.The learned Additional Public Prosecutor has now clarified that the respondent Police will be instructed that the protection granted is limited and subject to conditions, which form part of the investigation. For the purpose of the investigation, the said Moorthy is required to cooperate. The learned Additional Public Prosecutor seeks two weeks' time to file a status report providing all the details.

7.Post the matter on 05.12.2024..”

2.Today, when the matter is taken up for hearing, the learned Additional Public Prosecutor produced the status report. From the status report, it is seen that Document No.3314 of 2020 is created by impersonation and with bogus legal heir certificate and death certificate of Chelliah Pillai. The District Registrar has confirmed that the property



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is in the name of Chelliah Pillai and all the revenue records are in the name of Chelliah Pillai. The District Registrar had also written to the Registrar of Kayathar to take appropriate criminal action against those persons, who have involved in executing the alleged fraudulent sale deed in Document No.3314/2020 under Section 82 of the Indian Registration Act. The Investigating Officer had sent a request to the Tashildar, Kovilpatti to issue certificate in respect of the genuinity of the death certificate and legal certificate of Chelliah Pillai and this request was made on 25.03.2024. Nine months thereafter, on 03.12.2024, the Tashildar writes back to the Inspector of Police, Kayatharu Police Station, informing that the documents sought for are in the SRO office and hence, the genuineness of the same could not be verified. From this reply, it is seen that how in a snail pace, the investigation is being conducted.

3.The learned Additional Public Prosecutor fairly submits that the respondent police might not have requisite experts as of District Crime Branch in investigating the case relating to property, more particularly, the case involving forgery, impersonation and verification of revenue records.



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4.Considering the submissions and perusal of the records, this

Court is of the view that transfer of investigation from the respondent Police to District Crime Branch is just and necessary. Hence, the entire files are directed to be placed before the Superintendent of Police, Thoothukudi, who is to assign the case to the Inspector of Police, District Crime Branch to take up the investigation and complete the same within a period of six months from the date of receipt of a copy of this order.

5.This Criminal Original Petition is allowed on the above terms.

08.01.2024

NCC : Yes / No

Index : Yes / No

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To

1.The Judicial Magistrate,
Eraniel, Kanyakumari District

2.The Inspector of Police,
Karungal Police Station,
Karungal, Kanyakumari District.

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



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M.NIRMAL KUMAR, J.

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