



Crl.O.P.Nos.31418, 31419, 31425, 31426 and 31429 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 04.02.2025

DELIVERED ON : 13.02.2025

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.Nos.31418, 31419, 31425, 31426 and 31429 of 2024
and Crl.M.P.Nos.17911, 17910, 17913, 17912 and 17915 of 2024

Crl.O.P.No.31418 of 2024:-

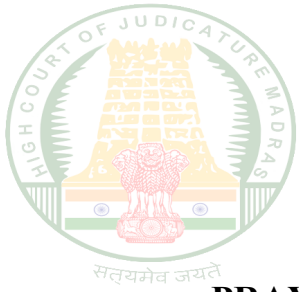
V.R.Krishnakumar @ Varaaki

... Petitioner

Vs

1. The Commissioner of Police,
Greater Chennai City Police,
Vepery, Chennai – 600 007.
2. The Assistant Commissioner Police,
Central Crime Branch,
Vepery,
Chennai – 600007.
(Crime No.180 of 2024)
3. The Central Bureau of Investigation,
represented by its Joint Director,
Rajaji Bhavan,
Besant Nagar,
Chennai.

... Respondents



Crl.O.P.Nos.31418, 31419, 31425, 31426 and 31429 of 2024

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PRAYER: Criminal Original Petition is filed under 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 to call for the records culminating in Crime No.180 of 2024, pending investigation on the file of the second respondent and transfer the same to third respondent or any other investigating agency to be appointed by this Hon'ble Court.

Crl.O.P.No.31419 of 2024:-

Varaaki @ V.R.Krishnakumar

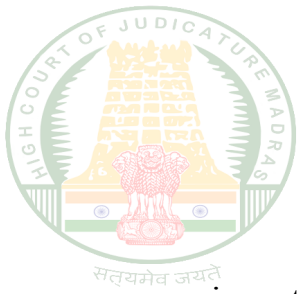
... Petitioner

Vs

1. The Commissioner of Police,
Greater Chennai City Police,
Vepery, Chennai – 600 007.
2. The Inspector of Police,
Gama-4, Land Grabbing Wing-II,
Central Crime Branch I,
Vepery,
Chennai – 600007.
(Crime No.182 of 2024)
3. The Central Bureau of Investigation,
represented by its Joint Director,
Rajaji Bhavan,
Besant Nagar,
Chennai.

... Respondents

PRAYER: Criminal Original Petition is filed under 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 to call for the records culminating in Crime No.182 of 2024, pending investigation on the file of the second respondent and transfer the same to third respondent or any other



Crl.O.P.Nos.31418, 31419, 31425, 31426 and 31429 of 2024

investigating agency to be appointed by this Hon'ble Court.

Crl.O.P.No.31425 of 2024:-

Varaaki @ V.R.Krishnakumar

... Petitioner

Vs

1. The Commissioner of Police,
Greater Chennai City Police,
Vepery, Chennai – 600 007.
2. The Inspector of Police,
Cyber Crime Wing,
Central Crime Branch,
Vepery,
Chennai – 600007.
(Crime No.266 of 2024)
3. The Central Bureau of Investigation,
represented by its Joint Director,
Rajaji Bhavan,
Besant Nagar,
Chennai.

... Respondents

PRAYER: Criminal Original Petition is filed under 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 to call for the records culminating in Crime No.266 of 2024, pending investigation on the file of the second respondent and transfer the same to third respondent or any other investigating agency to be appointed by this Hon'ble Court.



Crl.O.P.Nos.31418, 31419, 31425, 31426 and 31429 of 2024

Crl.O.P.No.31426 of 2024:-

V.R.Krishnakumar @ Varaaki

... Petitioner

Vs

1. The Commissioner of Police,
Greater Chennai City Police,
Vepery, Chennai – 600 007.
2. The Assistant Commissioner Police,
Central Crime Branch,
Vepery,
Chennai – 600007.
(Crime No.181 of 2024)
3. The Central Bureau of Investigation,
represented by its Joint Director,
Rajaji Bhavan,
Besant Nagar,
Chennai.

... Respondents

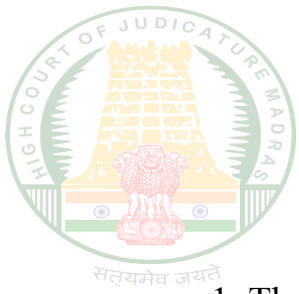
PRAYER: Criminal Original Petition is filed under 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 to call for the records culminating in Crime No.181 of 2024, pending investigation on the file of the second respondent and transfer the same to third respondent or any other investigating agency to be appointed by this Hon'ble Court.

Crl.O.P.No.31429 of 2024:-

V.R.Krishnakumar @ Varaaki

... Petitioner

Vs



Crl.O.P.Nos.31418, 31419, 31425, 31426 and 31429 of 2024

WEB COPY

1. The Commissioner of Police,
Greater Chennai City Police,
Vepery, Chennai – 600 007.
2. The Assistant Commissioner Police,
Central Crime Branch,
Land Grabbing Investigation Wing-I,
Vepery,
Chennai – 600007.
(Crime No.176 of 2024)
3. The Central Bureau of Investigation,
represented by its Joint Director,
Rajaji Bhavan,
Besant Nagar,
Chennai.

... Respondents

PRAYER: Criminal Original Petition is filed under 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 to call for the records culminating in Crime No.176 of 2024, pending investigation on the file of the second respondent and transfer the same to third respondent or any other investigating agency to be appointed by this Hon'ble Court.

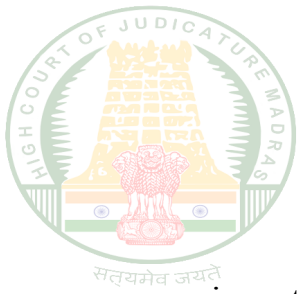
In all Crl.O.Ps

For Petitioners : Mr.P.Rajkumar Pandian

For R1 and R2 : Mr.K.M.D.Muhilan
Government Advocate (Crl.side)

COMMON ORDER

These petitions have been filed calling for the records culminating in Crime Nos.180, 182, 266, 181 and 176 of 2024, pending



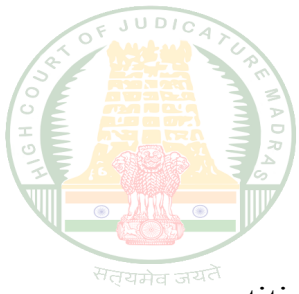
Crl.O.P.Nos.31418, 31419, 31425, 31426 and 31429 of 2024

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investigation on the file of the second respondent and transfer the same to third respondent or any other investigating agency to be appointed by this Hon'ble Court.

2. Heard the learned counsel on either side and perused the materials placed on record.

3. The petitioner is claiming to be an Activist, Journalist and a Whistle blower committed to exposing corruption and misconduct in public offices. He filed more than 60 Public Interest Litigations before this Court for the public causes. During the course of investigative journalism, he had gathered certain information regarding the corruption and misconduct involving the Commissioner of Police, Greater Chennai Corporation, Chennai viz., the first respondent herein and also some registering authorities. Thereafter, he had published the video and contents in his Youtube channel. Thereafter, the first respondent developed a personal vendetta against the petitioner. The first respondent conspired with other officials and foisted a false complaint as against the

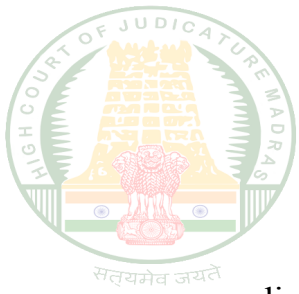


CrI.O.P.Nos.31418, 31419, 31425, 31426 and 31429 of 2024

petitioner, thereby five cases were registered against the petitioner.

4. On 12.09.2024, FIR in Crime No.289 of 2024 was registered by the Inspector of Police, E1 Mylapore Police Station, for the offences punishable under Sections 294(b), 447, 189, 353, 387, 307 and 506(2) IPC and Section 66D of Information Technology Act, 2000, on the complaint given by the Sub Registrar of Guduvancherry. Pursuant to the registration of FIR, the petitioner was arrested and remanded to judicial custody on 13.09.2024. The petitioner, while he was in prison, he was arrested under PT Warrant in the case registered in Crime No.180 of 2024, on the file of the Assistant Commissioner of Police, CCB, Vepery, Chennai.

5. The crux of the FIR in Crime No.180 of 2024 is that originally the Inspector of Police, P5 MKB Nagar Police Station registered FIR in Crime No.649 of 2024 on 21.09.2024 for the alleged offences under Sections 34, 294(b), 406, 420, 307 and 506(1) IPC and the same was transferred to the file of Assistant Commissioner of Police



Crl.O.P.Nos.31418, 31419, 31425, 31426 and 31429 of 2024

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as directed by the first respondent and re-registered in Crime No.180 of 2024, on 04.10.2024 alleging that while the defacto complainant was discussing with his friends in the campus for obtaining gas agency in the month of February, 2023, the petitioner heard the matter and approached the defacto complainant that he could obtain gas agency through sources and demanded a sum of Rs.5 Lakhs and also had assured that he could get the gas agency within two months. Believing the said words, the defacto complainant had paid the said amount near Aavin Milk Booth of this Court. But the petitioner neither arranged for gas agency nor returned the amount. When the defacto complainant demanded to repay the said amount, the petitioner had threatened him by accompanying other three persons. One of them had attempted to stab the defacto complainant with knife, but he escaped from the attack. However, he lodged a complaint only on 21.09.2024. On the said complaint, originally the Inspector of Police, P5 MKB Nagar Police Station, registered FIR and subsequently transferred to the file of the Assistant Commissioner of Police, Vepery, Chennai and re-registered the FIR in Crime No.180 of 2024.

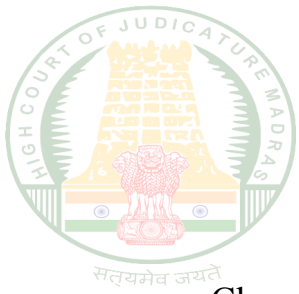


CrI.O.P.Nos.31418, 31419, 31425, 31426 and 31429 of 2024

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6. Insofar as the defacto complainant in Crime No.289 of 2024

is concerned, on 28.09.2024, unaccounted money to the tune of Rs.4,20,000/- was recovered by the Vigilance and Anti-Corruption Police from the office of the defacto complainant and registered FIR in Crime No.176 of 2024. Further, another Sub-Registrar one Paada Lingam was subjected to departmental action for causing loss to the tune of Rs.10 Crores to the Ex-chequer. Therefore, the petitioner filed a writ petition in W.P.No.28136 of 2017 seeking direction to initiate investigation and disciplinary proceedings against him. Subsequently, the said person was dismissed from the service. Further, the first respondent had shown the case registered in Crime No.180 of 2024 that the petitioner was detained under Act 14 by the order of detention dated 23.09.2024. It was challenged before this Court in HCP No.2527 of 2024. However, it was informed before this Court that the detention order was not approved and as such, it was not in existence. Once again, the petitioner was arrested and remanded to judicial custody, on 10.10.2024, pursuant to the registration of FIR in Crime No.180 of 2024, on the file of the Assistant Commissioner of Police, CCB, Vepery,



Crl.O.P.Nos.31418, 31419, 31425, 31426 and 31429 of 2024

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Chennai. Though the petitioner was released on bail by this Court in Crl.O.P.No.28384 of 2024, he could not come out due to other four cases registered in Crime Nos.176, 181, 182 and 266 of 2024, on the file of the CCB, Vepery, Chennai.

7. A perusal of FIR registered in Crime No.182 of 2024 for the offences under Sections 420, 465, 467, 468 and 471 IPC revealed that on the complaint given by one Sathyapriya, District Registrar (Administration), South Chennai, Nandanam, Chennai for the occurrence took place on 01.01.2019 and the complaint dated 27.09.2024 alleging that forged documents got registered vide Document No.389 of 1987 in respect of the property comprised in S.No.166/1, to an extent of 1 acre 57 cents, property comprised in S.No.166/3 to an extent of 62 cents, property comprised in S.No.167/1, to an extent of 2 acres 43 cents, in total to an extent of 4.62 cents situated at Urapakkam Village, Guduvancherry, South Chennai, Registration district against one Muthulingam and Devendran.



CrI.O.P.Nos.31418, 31419, 31425, 31426 and 31429 of 2024

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8. A perusal of FIR in Crime No.266 of 2024 for the offences punishable under Section 189, 353, 505(1)(b) of IPC and Section 66D of IT Act revealed that on the complaint received from one Dr.Theranirajan of Rajiv Gandhi Government General Hospital, Chennai as if the complainant demanded money from the Grade I Nursing Superintendent one Baby Samundeeswari for allotment of her duty and also for grant of leave and also savings in the GRT jewellery. Therefore, he want to take action on the false complaint lodged by the petitioner.

9. A perusal of FIR in Crime No.181 of 2024 for the offences punishable under Sections 406, 420, 506 (2) of IPC registered on the complaint received from one Arumai Selvam alleging that he was introduced with the petitioner during the month of December, 2021 near Aavin Booth of this Court stating that he is a Journalist and an Advocate. When the defacto complainant and his friend were talking about employment to the post of Office Assistant of this Court, the petitioner assured that he will get suitable job and received a sum of Rs.2,00,000/-



Crl.O.P.Nos.31418, 31419, 31425, 31426 and 31429 of 2024

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as an advance and thereafter, the petitioner neither obtained any job nor returned money. When the defacto complainant asked for return of money, the petitioner threatened him with dire consequences.

10. A perusal of FIR in Crime No.176 of 2024 for the offences punishable under Sections 294(b), 447, 189, 353, 387, 307 and 506(2) of IPC and Section 66D of IT Act revealed that on the complaint lodged by one Vaidhilingam, Sub Registrar, alleging that the petitioner called him and threatened him with false news. Therefore, he compelled the defacto complainant to do whatever he likes, failing which he will face dire consequences. Thereafter, three unknown persons visited his office and threatened him to extract money as if the petitioner sent him. When the defacto complainant refused to give any money, the petitioner called him and threatened him that he will disclose all the material against the defacto complainant in the WarRoom Youtube channel owned by the petitioner herein. Therefore, he lodged a complaint.

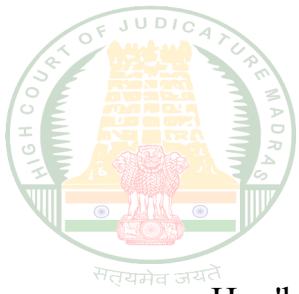


CrI.O.P.Nos.31418, 31419, 31425, 31426 and 31429 of 2024

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11. Thus, it is clear that all the cases were foisted as against the petitioner in order to detain him in the prison, though he was released on bail by the order of Court. All the cases were registered by the second respondent viz., The Assistant Commissioner of Police, CCB, Vepery, Chennai.

12. The learned counsel for the petitioner raised several grounds to transfer the investigation in all the FIRs to the file of Central Bureau of Investigation to get fair investigation. All the FIRs have been registered with malafide intention and the petitioner's right to fair investigation as guaranteed under Article 21 of Constitution of India is being violated by instigation of the first respondent. All the complaints are fabricated one and orchestrated to harass the petitioner and also to shut his mouth from asking to take appropriate action as against the corrupt officials. Therefore, fair investigation is essential not only for the protection of the petitioner's rights, but also for upholding public confidence in the administration of justice. Further, he specifically contended that the petitioner is a whistle blower as described by the



Crl.O.P.Nos.31418, 31419, 31425, 31426 and 31429 of 2024

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Hon'ble Supreme Court of India in the case of ***Indirect Tax Practitioners' Association Vs R.K.Jain*** in the case of ***2010 8 SCC 281***.

When the petitioner wrote about the misconduct, corrupt practices and misuse of powers of the public servants including the first respondent herein, certain messages were posted in his web page by marking a copy of the same to the official web pages of the Hon'ble Chief Minister of Tamil Nadu, Central Vigilance Commissioner, Tamil Nadu Police Department etc., the object of the Whistle Blowers Protection Act, 2011 is defeated by the acts of the first and second respondents herein in collusion with other corrupted public servants. The Act provides protection of the whistle blowers.

13. Therefore, the investigation in all the cases are to be transferred to the file of the third respondent for fair investigation in all the cases and also to find out the truth behind the registration of false cases.



Crl.O.P.Nos.31418, 31419, 31425, 31426 and 31429 of 2024

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14. The learned Government Advocate (Crl.side) appearing for the respondents 1 and 2 submitted that the accused has no say in the investigation done by the Investigating Officer. He cannot choose the investigation agency according to his whims and fancies. In fact, no one can interfere with the investigation of any crime. Therefore, he prayed for dismissal of all the petitions seeking transfer of investigation to the file of the third respondent.

15. The Hon'ble Supreme Court of India held in the case of ***Indirect Tax Practitioners' Association Vs R.K.Jain*** in the case of **2010 8 SCC 281**

“ 40. At this juncture, it will be apposite to notice the growing acceptance of the phenomenon of whistleblower. A whistleblower is a person who raises a concern about wrongdoing occurring in an organization or body of people. Usually this person would be from that same organization. The revealed misconduct may be classified in many ways; for example, a violation of a law, rule, regulation and/or a direct threat to public interest, such as fraud, health/safety violations and corruption. Whistleblowers may make their allegations internally (for example, to other people within the accused organization) or externally (to regulators, law enforcement agencies, to the media or to groups concerned with the issues). Most whistleblowers are internal whistleblowers, who report



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misconduct on a fellow employee or superior within their company.

41. . One of the most interesting questions with respect to internal whistleblowers is why and under what circumstances people will either act on the spot to stop illegal and otherwise unacceptable behavior or report it. There is some reason to believe that people are more likely to take action with respect to unacceptable behavior, within an organization, if there are complaint systems that offer not just options dictated by the planning and controlling organization, but a choice of options for individuals, including an option that offers near absolute confidentiality. However, external whistleblowers report misconduct on outside persons or entities. In these cases, depending on the information's severity and nature, whistleblowers may report the misconduct to lawyers, the media, law enforcement or watchdog agencies, or other local, state, or federal agencies.

42. In our view, a person like the respondent can appropriately be described as a whistleblower for the system who has tried to highlight the malfunctioning of an important institution established for dealing with cases involving revenue of the State and there is no reason to silence such person by invoking Articles 129 or 215 of the Constitution or the provisions of the Act.”

16. A perusal of records revealed that the petitioner is also a whistle blower who had tried to highlight the malfunctioning of the public servants especially in the registration department. It is also evident that he filed several Public Interest Litigations before this Court.

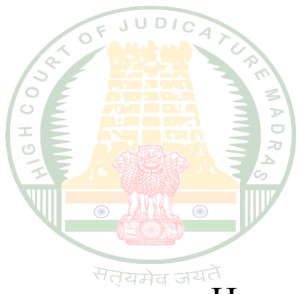


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17. Thus, it is clear that in order to prevent the petitioner from his activities, with malafide intention, the respondents 1 and 2 had foisted a false case as against the petitioner that too within a short span of time.

18. As stated supra, no complaint was lodged for the present occurrence and all are imaginary allegations. Therefore, there will not be fair investigation, if the second respondent is allowed to investigate in all the FIRs as against the petitioner. The petitioner's right to a fair investigation is guaranteed under Article 21 of Constitution of India. Furthermore, the malicious intent of the respondents 1 and 2 intimates an indirect investigation process, violating the principles of fairness and impartiality.

19. It is a settled law that the accused cannot seek for transfer of investigation, since he has no say in the investigation done by the investigating agency. The accused cannot choose the investigation agency to do investigation in the cases registered against the accused.



Crl.O.P.Nos.31418, 31419, 31425, 31426 and 31429 of 2024

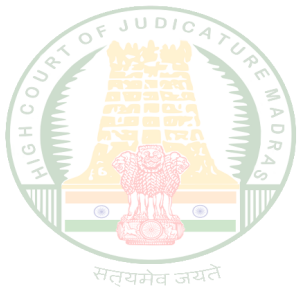
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However, in exceptional cases, constitutional Courts can exercise the extraordinary power where it becomes necessary to provide credibility and instil confidence in the investigation or where the incident may have national or international ramifications.

20. In this regard, it is relevant to rely upon the Judgment of the Hon'ble Supreme Court of India reported in **2024 SCC OnLine Sc 3592** in the case of ***Kabir Shankar Bose Vs State of West Bengal and others***, wherein held as follows:-

“ 29. *The power to transfer an inquiry or a trial is exercised through the intervention of the constitutional courts in exceptional circumstances and the constitutional courts are expected to use the said extraordinary power sparingly, cautiously and in exceptional situation where it becomes necessary to provide credibility and instil confidence in the investigation or where the incident may have national or international ramifications or where it is necessary for doing complete justice and enforcing fundamental rights as is explained in State of West Bengal vs. Committee for Protection of Democratic Rights⁸. In other words, transfer of any investigation may (2010) 3 SCC 571 not be ordered by the court in a routine/perfunctory manner or merely for the reason that one party makes allegations against the other.*

30. *In Rubabbuddin Sheikh vs. State of Gujarat⁹, it has been concluded that in an appropriate case when*



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the court feels that the investigation by the police authorities is not in the proper direction, and in order to do complete justice in the case when the high profile officials are involved in the crime, it is always open to the court to handover the investigation to an independent agency like CBI. It may be noted that constitutional courts can even direct for further investigation by some other investigating agency to ensure completion of fair investigation and fair trial.

31. In K.V. Rajendran vs. CBCID10, it has been observed that where high officials of the State authorities are involved or the accusation itself is against the top officials of the investigating agency who may probably influence the investigation, and where the investigation is bound to be tainted, to instil confidence in the investigation, the (2010) 2 SCC 200 (2013) 12 SCC 480 constitutional courts ought not to be shy in exercising power of transferring an investigation from the State agency to any other independent agency like CBI.

32. It is well recognised that investigation should not only be credible but also appear to be credible vide R.S. Sodhi vs. State of U.P.11. Even otherwise, the law requires that justice may not only be done but it must appear to have been done. Thus, following the above dictum, to ensure a fair investigation in the matter, there appears to be weight in the argument of the learned counsel for the petitioner to transfer the investigation in relation to the two FIRs to an independent agency, more particularly keeping in mind the factual background and circumstances of the case.”

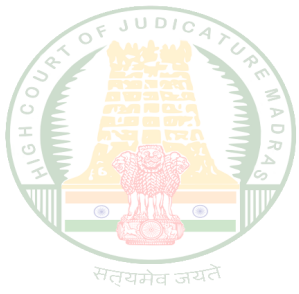


Crl.O.P.Nos.31418, 31419, 31425, 31426 and 31429 of 2024

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21. In the above case also, the petitioner is an Advocate and Politician. Therefore, the Hon'ble Supreme Court of India entertained the writ petition under Article 32 of Constitution of India for transfer of investigation in respect of two FIRs registered against the petitioner. Therefore, the Hon'ble Supreme Court of India dealt with the issue whether the investigation pursuant to the two FIRs against the petitioner are necessarily to be transferred to some independent agency held as stated supra.

22. Therefore, though settled law is that no party, either the accused or the complainant is entitled to choose the investigating agency or to insist for investigation of a crime by a particular agency, where high officials of the State authorities are involved or the accusation itself is against the top officials of the investigating agency who may probably influence the investigation and where the investigation is bound to be tainted, to instil confidence in the investigation. This Court ought not to be shy in exercising power of transferring an investigation from the State agency to any other independent agency.



CrI.O.P.Nos.31418, 31419, 31425, 31426 and 31429 of 2024

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23. Considering the above facts and circumstances of the case, each cases registered against the petitioner should be transferred to the independent agency. Therefore, following the above dictum laid by the Hon'ble Supreme Court of India to ensure fair investigation in the cases registered against the petitioner, it is just and necessary to transfer the investigation to an independent agency. In fact, the Hon'ble Supreme Court of India further held in the above case that the matter of entrusting investigation to a particular agency is basically at the discretion of the Court which has to be exercised on sound legal principles. Therefore, the presence of complainant/informant are not very necessary before the Court, since no prejudice should be caused either of the parties if the investigation is conducted by an independent agency other than the State Police.

24. Therefore, though the defacto complainants are not the parties here, their presence are not required before this Court, since no prejudice would be caused to them if the independent agency conducts investigation in all the FIRs.

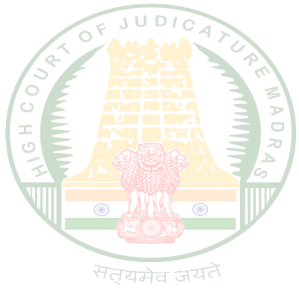


Crl.O.P.Nos.31418, 31419, 31425, 31426 and 31429 of 2024

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25. In view of the above, this Court is inclined to transfer all the FIRs in Crime Nos.180, 182, 266, 181 and 176 of 2024, pending investigation on the file of the second respondent to the file of CBCID, Chennai for fair and proper investigation.

26. The second respondent is directed to entrust the entire case diary in respect of their respective FIRs to the CBCID, forthwith. On receipt of the entire case diary, the Additional Director General of Police, CBCID, Chennai is directed to appoint an Investigating Officer not below the rank of Deputy Superintendent of Police of CBCID and complete the investigation and file a final report, within a period of twelve weeks from the date of receipt of case diary. The Director General of Police (Administration), Chennai is directed to monitor the investigation and ensure that the fair and proper investigation to be done in all the cases registered against the petitioner.



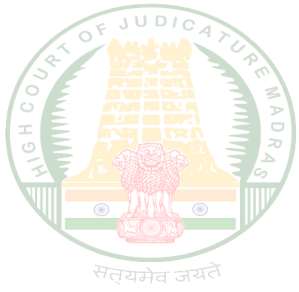
Crl.O.P.Nos.31418, 31419, 31425, 31426 and 31429 of 2024

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27. Accordingly, these Criminal Original Petitions are allowed. Consequently, connected Miscellaneous Petitions are closed.

13.02.2025

Internet: Yes
Index: Yes/No
Speaking/Non speaking order
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Crl.O.P.Nos.31418, 31419, 31425, 31426 and 31429 of 2024

G.K.ILANTHIRAIYAN. J.

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To

1. The Commissioner of Police,
Greater Chennai City Police,
Vepery, Chennai – 600 007.
2. The Assistant Commissioner Police,
Central Crime Branch,
Vepery,
Chennai – 600007.
(Crime No.180 of 2024)
3. The Inspector of Police,
Gama-4, Land Grabbing Wing-II,
Central Crime Branch I,
Vepery,
Chennai – 600007.
4. The Central Bureau of Investigation,
represented by its Joint Director,
Rajaji Bhavan,
Besant Nagar,
Chennai.
5. The Public Prosecutor,
High Court, Madras.

Crl.O.P.Nos.31418, 31419, 31425, 31426 and 31429 of 2024

6. The Additional Director General of Police,
CBCID,
Chennai.
7. The Director General of Police (Administration),
Chennai.

13.02.2025