

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2015

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THE HONOURABLE MR. JUSTICE R.SUBBIAH

Cr1.O.P.No.20355 of 2015

S.Karthikeyan

... Petitioner

Vs

1.The Commissioner of Police,
Chennai District.

2.The Inspector of Police,
Ambattur, Chennai.

3.TEJA Hospital
Multi Speciality Center,
471, M.T.H.Road,
Ambattur, Chennai-600 053

... Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. to register the FIR based on the complaint made by the petitioner dated 22.4.2015 and direct the first respondent to investigate the matter within the time stipulated by this Court.

For Petitioner : Mr.S.Veeraraghavan

For respondents : Mr.C.Emalias,
Addl.Public Prosecutor,
for R.1 and R.2

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ORDER

The present criminal original petition has been filed seeking a direction to the first respondent to register the FIR based on the complaint made by the petitioner dated 22.4.2015 and direct the first respondent to investigate the matter within the time stipulated by this Court.

2. It is the case of the petitioner that his wife Bhavani, who was pregnant, was admitted in the third respondent hospital on 5.3.2015 as in-patient for taking treatment for her illness. After recovery, she was discharged by the third respondent on 8.3.2015. Again, she got illness and the petitioner admitted her in the third respondent hospital on 9.3.2015 at 11.00 p.m. After injecting Deriphylin and Asthalin Nebulisation, which is not at all advised for a pregnant woman, the third respondent asked the petitioner to take her to home. But, the petitioner requested the third respondent to admit her and treat her. Again at 2.10 a.m., the third respondent injected the same Deriphylin to the petitioner's wife along with some other medicines. After that, she fainted and had died. All the records given by the third respondent will clearly reveal that the third respondent did not diagnose for the actual illness caused to his wife. Further, the post mortem report reveals that the death of the petitioner's wife was caused by the effects of Pneumonia. Thus, the report given by the third respondent is contradictory to the statement of post mortem report. Hence, a complaint was lodged against the third respondent before the second respondent police on 10.3.2015. But, the second respondent did not accept the complaint lodged by the petitioner and directed the petitioner's father in law to change the complaint according to his own whims and fancies. Since the petitioner's father in law is illiterate, he does not know the contents of the complaint, which was written by the second respondent and based on the said complaint, a case was registered in FIR No.553 of 2015 under Section 174(iii) CrI.P.C. Further, the second respondent is not ready to investigate the matter and has registered the FIR according to his wish. Hence, the petitioner lodged a complaint before the first respondent on 22.4.2015 and the same was forwarded to the second respondent. But, till date, the second respondent has not taken any action on the said complaint. Hence, the petition.

3. The second respondent has filed a counter, wherein it has been stated that on 5.3.2015, the petitioner's was suffering from fever and she was admitted in the third respondent hospital and on 8.3.2015, after recovery, she was discharged from the hospital. On 9.3.2015, at about 22.30 hours, since she was breathless, the petitioner took her to the third respondent hospital and admitted her as in-patient. But, the deceased did not respond to treatment and died on 10.3.2015 at about 3.30 hours. Hence, the petitioner lodged a complaint and on the basis of the said complaint, a case was registered by M.Arunkumar, the Sub Inspector of Police in Crime No.553 of 2015 under Section 174(iii) Cr.P.C. and the Sub Inspector of Police submitted the same to the Assistant Commissioner of Police, Ambattur Range for investigation. On receipt of the same, the

Assistant Commissioner of Police went to the third respondent hospital and sent the body of the deceased to Kilpauk Medical College Hospital for post mortem. He gave requisition to the Revenue Divisional Officer, Ambattur to conduct inquest over the body of the deceased. Based on the said requisition, the Revenue Divisional Officer went to Kilpauk Medical College Hospital and conducted inquest over the body of the deceased in the presence of Panchayat members and recorded their statements. Based on the statement of the witnesses and after detailed enquiry, he has given a report stating that the deceased would have died due to dowry harassment and suggested to proceed with the investigation. The Assistant Commissioner recorded the statement of the witnesses, who are working in the third respondent hospital and all the witnesses corroborated the same version that the deceased could have died due to her illness. On receipt of chemical analysis report, final opinion was obtained from Dr.R.Selvakumar, who conducted the post mortem over the body of the deceased and the Doctor opined that the deceased would appear to have died due to the effects of Pneumonia. After completion of investigation, the Assistant Commissioner came to the conclusion that the deceased would not have died of dowry harassment and directed the second respondent to alter the section as 174 Cr.P.C. and to proceed further investigation vide C.No.29/AC Amb/Camp/2015. So far, the investigation reveals that the deceased was admitted as in-patient in the third respondent hospital on 5.3.2015 to take treatment for fever and only on 8.3.2015, she was discharged after fully recovered and thereafter, on 9.3.2015 mid night, she was again admitted in the same hospital for her illness.

4. Learned Additional Public Prosecutor submitted that after examination of the witnesses according to law and after completing the investigation in this case, the complaint dated 22.4.2015 given by the petitioner was closed.

5. But, the learned counsel appearing for the petitioner denied the statement made in the counter filed by the second respondent police and submitted that even though section 174(iii) Cr.P.C. is not applicable to this case, the FIR was registered under Section 174 Cr.P.C. Thus, he sought for a direction to the first respondent to investigate the matter.

6. Irrespective of the submissions made by the learned counsel on either side, I am of the opinion, since the complaint dated 22.4.2015 given by the petitioner has already been closed, this Court cannot give any direction to the first respondent. Hence, the criminal original petition is dismissed. However, the petitioner is at liberty to work out his remedy under Section 156(3) Cr.P.C., if he is so advised.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1.The Commissioner of Police,
Chennai District.

2.The Inspector of Police,
Ambattur, Chennai.

3. The Public Prosecutor,
High Court, Madras.

+1 cc to M/S.S.Veeraraghavan Advocate sr.65634

CrI.O.P.No.20355 of 2015

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