

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2015

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Cr1.O.P.No.25773 of 2015

Rathni Nelson

... Petitioner

..Vs..

1. The Director General of Police,
Law and Order,
State of Tamil Nadu.
 2. The Superintendent of Police,
Cuddalore, Cuddalore District.
 3. The Inspector of Police,
Devanampattinam Police Station,
Cuddalore, Cuddalore District.
 4. The Deputy Superintendent of Police,
C.B.C.I.D. Cuddalore,
Cuddalore District.
- Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. seeking a direction to the respondents to take action on the petition dated 07.07.2014 sent by the petitioner and consequently reopen and transfer the investigation in Crime No.140 of 2013 on the file of the 3rd respondent to the 4th respondent.

For Petitioner : Mr.V.Janarthanam

For Respondents : Mr.C.Emalias,
Addl. Public Prosecutor

WEB COPY
O R D E R

The present Criminal Original Petition has been filed seeking a direction to the respondents to take action on the petition dated 07.07.2014 sent by the petitioner and consequently reopen and transfer the investigation in Crime No.140 of 2013 on the file of the 3rd respondent to the 4th respondent.

2. The case of the prosecution is that the complainant, Tmt.Asha Nelson stated that her husband Stanley Nelson (deceased) worked as a Trainer in the Gym run for the employees of Nagarjuna Oil Corporation Company, Cuddalore Beach Road, Cuddalore. While so, on 26.11.2013, about 4.30 a.m., the deceased left to Gym and came back home at 7.00 a.m, but when he left home after that, he didn't return. Hence, the defacto complainant contacted one Mr.Agustin belonging to her Parish and went to Gym along with Mr.Parthiban and Mr.Balamurugan and found that her husband was lying dead. Hence, she lodged a complaint before the respondent police, based on which, a case was registered in Crime No.140 of 2013 in Cuddalore New Town Police Station under Section 174(i) Cr.P.C. by Mr.Kanakaraj, the then Sub-Inspector of Police on 26.11.2013 at 9.30 hours and the same was pending before Mr.Paul Sudhar, the then Inspector of Police for investigation.

3. The main grievance of the petitioner is that the death of her son Stanley Nelson is not a natural one, as he was found lying dead in the Gym with grievous injuries on his head. On the complaint made to the respondent police on 26.11.2013, F.I.R. was registered by the Inspector of Police, Devanampattinam Police Station under Section 174 Cr.P.C. in Crime No.140 of 2013 and the case was closed on 22.01.2014 by the Inspector of Police stating that it is a natural death due to heart attack. While so, on 05th and 12th of January 2014, the petitioner received a phone call from No.7812886987 from one Murugan, Head Constable and asked her about the details of the persons she suspects in this case. Pursuant thereto, her daughter-in-law, Asha Nelson, sought details pertaining to the death of her husband under the Right to Information Act, from the 2nd respondent. On 22.03.2014, the 2nd respondent sent a reply under the R.T.I. Act that the death of the deceased is a suspicious one. She applied copy application of the F.I.R., Inquest Report and Post-mortem Report before the Judicial Magistrate No.III, Cuddalore on 19.12.2015. The copy application was returned stating that no such document is obtainable in the Court. Thereafter, the petitioner filed C.M.P.No.4376/2015 before the Judicial Magistrate No.III, Cuddalore seeking a direction to transfer the investigation. But, the said petition got dismissed on 15.07.2015.

4. In the counter affidavit, the respondent police has stated that after completion of thorough and detailed investigation, based on the statements of the witnesses, Medical Reports of the deceased, the case was referred as "Further Action Dropped" by Mr.Paul Sudhar, the then Inspector of Police, on 22.01.2014 and the Final Report was submitted before the Tahsildar, Cuddalore in R.C.S.No.16 of 2014. According to the

respondent police, there is no need to reopen and transfer the investigation in Crime No.140 of 2013 on the file of the 3rd respondent to the 4th respondent, as prayed by the petitioner.

5. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

6. Learned Additional Public Prosecutor appearing for the respondents submitted that on completion of investigation, the matter was referred as mistake of fact and R.C.S.No.16 of 2014 has been filed before the Tahsildar, Cuddalore on 22.01.2014.

7. Taking note of the above submissions, as the complaint has been closed and Refer charge sheet has been filed, nothing further survives for consideration in this matter. However, the petitioner is at liberty to work out her remedy in the manner known to law.

The Criminal Original Petition is dismissed with the above observation.
aeb

s/d-
Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

To :

1. The Director General of Police,
Law and Order,
State of Tamil Nadu.
2. The Superintendent of Police,
Cuddalore, Cuddalore District.
3. The Inspector of Police,
Devanampattinam Police Station,
Cuddalore, Cuddalore District.
4. The Deputy Superintendent of Police,
C.B.C.I.D. Cuddalore, Cuddalore District.
5. The Public Prosecutor,
High Court, Madras.

+ 1 cc to Mr.V.Janarthanam, Advocate SR 68318

scd(co)
prk19/1

Cr1.O.P.No.25773 of 2015