

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2015

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Cr1.O.P.No.26493 of 2015

Udayasuriyan

... Petitioner

Vs

1. State represented by its
Director General of Police,
Chennai.
 2. State represented by
Inspector of Police,
Katpadi Police Station,
Vellore District
 3. Superintendent of Police,
CBI,
Shastri Bhavan,
Chennai.
- Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. seeking a direction to transfer the investigation in Crime No.148 of 2015 pending on the file of second respondent to the file of 3rd respondent for fresh investigation.

For Petitioner : Mr.T.S.Gopalan

For Respondents : Mr.C.Emalias
Additional Public Prosecutor

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O R D E R

This petition has been filed, praying for a direction to transfer the investigation in Crime No.148 of 2015 pending on the file of second respondent to the file of 3rd respondent for fresh investigation.

2. According to the petitioner, on 22.3.2015, while he was travelling from Katpadi to his native village Karnambut in a two wheeler along with one Rajkumar, a car came in opposite direction in a rash and negligent manner and dashed the two wheeler and as a result of which, the said Rajkumar died on the spot and the petitioner was thrown out from motor cycle and he sustained injuries on his forehead and legs. According to the petitioner, later he came to know that the driver of the car, was none other than the Collector of Vellore District, namely, Nandagopal and after the accident, he immediately contacted higher police officials and left the spot within few minutes in a car provided by the Revenue Department. Thereafter, the police officials came from Katpadi and recorded the details of the accident and admitted the petitioner in Christian Medical College and Hospital, Vellore. It is stated that while the petitioner was undergoing treatment, one Ramamurthy, Sub-Inspector of Police came to the petitioner and obtained his signature forcibly and despite protest made by his mother and staff nurse. The petitioner was not aware of the nature of statement said to have been taken from him. It is further stated that in the FIR, there is no mention about the driver of the car as an accused. The petitioner obtained a certified copy of the FIR and got surprised to know that the second respondent has completely distorted the incident containing false averments. Knowing the accident and the factum that the Collector fleeing from the accident spot without providing first aid to the injured, the political parties protested against the attitude of the administrative officials and indulged a road block. The grievance of the petitioner is that though the Collector, Vellore District is the perpetrator of the crime, but for his influence, the second respondent had not shown him as an accused. The Collector had also visited the hospital to see the petitioner in order to create sympathy and he spoke his mother, but had no remorse about the accident. According to the petitioner, at the opposite side of accident spot, M/s.Venkateswara Marbles and Tiles have installed CCTV and he reliably learnt that the police officials had seized the CCTV and erased the entire records that were recorded on the date of occurrence of the accident to save the Collector under whose control, the investigation in the case has become lopsided. Hence the petitioner has come forward with the present petition, seeking to transfer the investigation to CBI.

3. A status report has been filed by the second respondent/Inspector of Police, Katpadi Police Station, stating that on 22.03.2015, the petitioner and his friend Rajkumar went to Chittoor border in a two wheeler to consume toddy and after that they went to Katpadi for purchasing clothes and the deceased Rajkumar was driving the vehicle and due to negligence driving, the vehicle dashed a car and as a result of which, the petitioner sustained injuries and the said Rajkumar died on the spot. On information from the Christian Medical College and Hospital, Vellore, the Sub Inspector of Police visited the hospital and obtained the statement of the petitioner. As per the complaint of the petitioner, a case was registered in Crime No.148 of 2015 under Sections 279, 337 and 304(A) IPC. The Inspector of Police who took up investigation, has visited the hospital, Adukkamparai, Vellore and conducted an inquest over the dead body of Rajkumar and sent to conduct an autopsy. Later, he examined various witnesses, petitioner, parents and relatives of the deceased and staff of the Collectorate, Vellore and recorded their statements. It is stated that the investigation reveals that the said accident caused by Xylo car bearing registration No.TN 23 BB 2875, belonging to the District Collector, Vellore. It is further stated that after completion of thorough and detailed investigation, based on the statements of the witnesses and medical reports, the second respondent laid a charge sheet against the accused Mohan in crime No.148 of 2015 under Sections 279, 338 and 304(A) IPC on 26.6.2015 and the same was submitted to the Judicial Magistrate Court, Katpadi, which was taken on file vide C.C.No.311 of 2015. According to the second respondent, the investigation was conducted in a fair, free and impartial manner and in accordance with law. Therefore, he prayed for dismissal of the petition as there is no necessity to transfer the investigation.

4. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents and perused the entire materials placed on record.

5. In the present case, it is not in dispute that after completion of the investigation, the respondents/police have filed the charge sheet before the learned Judicial Magistrate, Katpadi and it was also taken cognizance vide C.C.No.311 of 2015. At this stage, the petitioner has come forward with the present petition, seeking to transfer the investigation to CBI, alleging that the District Collector of Vellore is the person,

who drove the vehicle and caused the accident and that the respondents/police being influenced by him, had conducted the investigation unfairly without citing the Collector as an accused. It is no doubt true that this Court in exercise of its jurisdiction under Section 482 Cr.P.C., is vested with the power of transferring the investigation from one agency to another, however, provided the ends of justice so demand such action. But in this case, already investigation has been completed and charge sheet has also been filed. Therefore, this Court cannot entertain this petition as the prayer has become infructuous.

Accordingly, the Criminal Original Petition is dismissed. However, the petitioner is at liberty work out his remedy in the manner known to law.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Director General of Police,
Chennai.
2. The Inspector of Police,
Katpadi Police Station,
Vellore District
3. The Superintendent of Police,
CBI, Shastri Bhavan, सत्यमेव जयते
Chennai.
4. The Public Prosecutor,
High Court, Madras.

MSM(CO)
CA(25/01/2016)

CRL.O.P.No.26493 OF 2015