

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :29 .04.2015

CORAM

THE HON'BLE MR. JUSTICE R.S.RAMANATHAN

CRL.O.P.NO.3611 OF 2015

AND

M.P.No.1 of 2015

A.Ananthi ...Petitioner/Defacto
Complainant
vs.

1. The Director General of Police,
Kamarajar Salai,
Mylapore, Chennai - 600 004.
2. The Superintendent of Police,
Krishnagiri District, Krishnagiri.
3. The Inspector of Police,
Thally Police Station,
Krishnagiri District.
4. The Joint Director,
Central Bureau of Investigation,
Chennai. ...Respondents/Respondent

This Criminal Original Petition is filed seeking direction upon the respondents 1 and 2 to withdraw the case file pertaining to Cr.No.391 of 2014, from the file of the third respondent and to transfer the same to the fourth respondent for fair and de novo investigation in Crime No.391 of 2014.

For Petitioner : Mr.N.Manokaran

For Respondents 1 to 3: Mr.S.Shanmughavelayutham
Public Prosecutor, assisted by
Mr. M.Maharaja,
Additional Public Prosecutor.

Orders reserved on 20.03.2015.

O R D E R

This Criminal Original Petition is filed, seeking direction upon respondents 1 and 2 to withdraw the case in Cr.No.391 of 2014, from the file of the third respondent and to transfer the same to the fourth respondent, for fair and de novo investigation.

2. The petitioner is the mother of the deceased/Navaneethakrishnan, who was working as Horticulture Officer at Pennagaram. The said Navaneethakrishnan was nominated for international training for nursery management from 17.07.2012 to 31.07.2012, at CINADO Training Centre, Israel. Thereafter, he was transferred to the Office of the Deputy Director of Horticulture, Dharmapuri. Later, he was transferred to the Office of the Assistant Director of Horticulture, Pennagaram Block, Dharmapuri. The deceased was on special duty as Project Manager for Indo-Israel Project on Centre of Excellence for Cut-flowers (CEC project site) at Thally Block, Krishnagiri District, from July, 2013. He was an honest Officer. On 11.12.2014, around 10.30 a.m., her family received a phone call from the Joint Director of Horticulture, Krishnagiri District, to the effect that her son was found missing from aforesaid site and his mobile phone was switched off. Immediately, the petitioner contacted all her relatives and his friends to find out his whereabouts. But her efforts ended in futile. Therefore, on 11.12.2014, husband of the petitioner lodged a complaint before the third respondent/Police about the missing of his son/Navaneethakrishnan, pursuant to which, a case was registered in Crime No.391 of 2014, under the caption "Man Missing".

3. The case of the petitioner, as stated in the Petition, in short, is that no proper investigation was done by the third respondent/Police and even though, the third respondent/Police had all clues with themselves, they did not investigate the case in a proper direction. On 15.12.2014, at about 4.00 p.m., Police Officer noted a foul smell emanating from the unused septic tank at the Horticulture Training Centre, Thally, and on opening the lid of the septic Tank, they found a decomposed dead body of Navaneethakrishnan. Thereafter, on 17.12.2014, the third respondent/Police arrested one Nagaraj, who was employed as Watchman in the CEC project site, and on his confession, his stepson Muniraj was identified and they were arrayed as accused Nos.1 and 2 respectively.

4. According to the petitioner, the said Nagaraj and Muniraj might have acted for and behalf of some other political bigwigs and higher authorities in the Horticulture Department, and there was no reason for the said two persons to murder her son. According to the petitioner, the higher Officials in the Horticulture Department, who are known for corruption charges have joined hands with the local political people and conspired to eliminate the petitioner's son/Navaneethakrishnan, who attempted to expose their illegal activities. As a matter of fact, the first accused/Nagaraj mentioned about the involvement of one C.Kumar, Assistant Agricultural Officer in the said Thally Block site, at whose instance, the murder was committed, and stated that, he was made as a scapegoat.

5. The petitioner further stated that the Police Officials at the influence of higher officials and instructions got from the other

political bigwigs, did not interrogate C.Kumar, properly. Other officers viz., ii) Chidambaram, ii) Srinivasan, who are Assistant Directors of Horticulture, Hosur Block, and iii) Venkattta Rajendra Reddy, Assistant Director of Horticulture, Kelamangala Block, were also not properly interrogated by the Police. Had they been properly interrogated, involvement of other persons in the participation of crime would have come to light. According to the petitioner, the aforesaid four persons, viz., i) C.Kumar, ii) Chidambaram, iii) Srinivasan, and iv) Venkattta rajendra Reddy, entered into a conspiracy to eliminate Navaneethakrishnan, apprehending that he would expose their corrupt practices, to the Manager, during his visit to the Department on 11.12.2014. In these circumstances, the petitioner has filed the present Petition for transfer of investigation from the third respondent to the fourth respondent.

6. Mr.N.Manokaran, the learned counsel appearing for the petitioner has submitted that the prosecution projected the case that the murder was committed by Nagaraj and his stepson Muniraj for gain on the basis of the withdrawal of money by Muniraj by using the ATM card of the deceased/ Navaneethakrishnan, and on the confession of Muniraj, Nagaraj was also arrested and they both gave confession regarding the commission of offence, but other infirmities appearing on the side of prosecution were not properly appreciated by the Investigating Officer and investigation was not done properly and no proper enquiry was conducted by the Police Officials by interrogating the aforesaid four persons.

7. The learned counsel for the petitioner submitted that according to the case of the prosecution, the murder was committed for gain. If that is so, then, the accused would have withdrawn entire amount from the ATM centre from the account of the deceased and would have also taken the golden ring found on the deceased body, after the murder. The post mortem report would also reveal various injuries, viz., Hyoid bone fractured on lateral margin, RP side sided 2nd 3rd 4th ribs fractured, skull fractured, maxillary bone and nasofrontal bone fracture, and those injuries might not have been caused if the incident had taken place in the manner, as projected by prosecution on the basis of confession of the accused.

8. The learned counsel appearing for the petitioner further submitted that even according to the prosecution, cell phone messages were sent by the first accused/Nagaraj implicating C.Kumar in the crime and those messages were intercepted on 13.12.2014. Though the respondent/Police was aware that the deceased would have been done to death by Nagaraj and Muniraj with the active connivance of C.Kumar and other persons, they have not informed the same to the family members of the deceased and no enquiry was conducted with C.Kumar, and no material was furnished by the prosecution to the effect that on receipt of cell phone messages, C.Kumar was interrogated on 13.12.2014. Prosecution has also not directed its investigation about

the involvement of other higher officials and hurriedly closed the investigation by accepting the confession of the accused. Had there been proper investigation, the involvement of higher officials, viz., i) C.Kumar, ii) Chidambaram, iii) Srinivasan, and iv) Venkatta Rajendra Reddy would have come to light.

9. The learned counsel appearing for the petitioner, to buttress his contention that fair and impartial investigation are essential ingredients of criminal jurisprudence, and fair investigation is part of constitutional rights guaranteed under Articles 20 and 21 of the Constitution of India and the investigation must be fair, transparent and judicious, placed reliance on the judgments reported in i) (2010) 12 SCC 254 in re (Babubhai Vs. State of Gujarat) and ii) (2013) CrI.L.J. 3227 (Karan Singh Vs. State of Haryana and another). The learned counsel also relied upon the judgment reported in (1999) 2 SCC 126 in re (Paras Yadav Vs. State of Bihar) in support of his contention that, "if there is any lapse or omission on the part of the Investigating Agency, whether wilfully or due to negligence, the prosecution evidence is required to be examined, de hors, such omissions to find out whether the said evidence is reliable or not".

10. The learned counsel appearing for the petitioner, therefore, submitted that purpose of investigation is to find out the truth and truth should not be suppressed, as suppressio veri suggestio falsi, and by reason of the partial investigation conducted by the third respondent/Police, real culprits should not be allowed to escape, and therefore, the case has to be transferred to the fourth respondent for proper investigation.

11. Mr.S.Shanmughavelayutham, learned Public Prosecutor for the respondents 1 to 3, while assailing the submissions made by the learned counsel appearing for the petitioner, reiterated the stand taken by the third respondent/Police in his counter affidavit and submitted that there was no negligence on the part of the respondent/Police in taking up the investigation, and investigation was done in a proper direction. The learned Public Prosecutor submitted that, on receipt of complaint from the petitioner's husband, immediately, case was registered under the caption "Man Missing", and as a matter of fact, the petitioner and her husband, were informed about the missing of Navaneethakrishnan, and investigation would reveal that on 10.12.2014, the deceased was last seen with Nagaraj, first accused, who was employed as Watchman in the Horticulture Department. Enquiry also reveals that the said Nagaraj used to take the deceased in his two wheeler after working hours when the deceased went to his native place and on the fateful day, 10.12.2014, the deceased was taken by Nagaraj and the said Nagaraj also went to the room, where, the deceased stayed along with other persons, and took the bag belonging to the deceased and that was spoken to, by the inmates, who stayed along with the deceased and

paper publication was effected in and around Thally and Bangalore with photographs of the deceased to find out his whereabouts, and only on 15.12.2014, when the foul smell from the unused septic tank emanated, they were able to identify the dead body, and immediately post mortem was conducted and during investigation, it was found that from the accounts of the deceased/Navaneethakrishnan, Rs.10,000/- was withdrawn on 11.12.2014 through the ATM Card of the deceased, and when it was scrutinized, it was found that the amount was withdrawn by Muniraj, the stepson of Nagaraj, and on that basis, he was arrested and he gave confession about the crime committed by Nagaraj and the said Nagaraj was found absconding from 12.11.2014. Later, on 17.12.2014, Nagaraj was arrested and he also gave confession, and considering all these aspects, proper steps were taken by the third respondent by filing chargesheet, and therefore, there is no reason for transferring investigation.

12. The learned Public Prosecutor for respondents 1 to 3 also submitted that no materials were available relating to the crime alleged to have been committed by other Assistant Directors of Horticulture. Eventhough, cellphone messages were sent by Nagaraj through Muniraj and received by Police on 13.12.2014, those messages were sent with the deliberate intention of misdirecting the investigation. The learned Public Prosecutor also submitted that, after the messages were received, C.Kumar and other Officials were enquired, and having regard to the statements obtained from those persons, no materials were available to suspect the involvement of those persons. There was also no materials available to corroborate the confession of the petitioner that Officials in the Horticulture indulged in corrupt practices and apprehending that they would be exposed about their corrupt practices by the deceased, at the time of surprise visit of the Head to their Office on 11.12.2014, they planned to murder the deceased.

13. The learned Public Prosecutor for respondents 1 to 3 also submitted that the deceased was last seen with Nagaraj and the belongings of the deceased were taken by said Nagaraj, and that was spoken to, by inmates of the deceased, where, the deceased stayed. The withdrawal of money from the accounts of the deceased by Muniraj was taken from CC TV of the ATM branch, which would prove that Muniraj and Nagaraj committed the murder. Therefore, the learned Public Prosecutor submitted that the respondent/Police have done proper investigation and there is no need for transferring the investigation to any other Investigating Agency. The learned Public Prosecutor also relied upon the judgments reported in i) (2010) 3 S.C.C. 571 in re (State of West Bengal and others Vs. Committee For Protection of Democratic Rights, West Bengal and others), (2013) 12 SCC 480 in re (K.V.Rajendran Vs. Superintendent of Police) in support of his contention.

14. Heard the rival submissions made on both sides and upon such submissions, I have carefully gone through the averments made in i) petitioner's Petition, ii) counter affidavit, and iii) reply affidavit filed to the counter affidavit, and also the case diary and judgments relied upon on either side.

15. In the judgment reported in (2010) 3 S.C.C. 571 (supra) the Hon'ble Supreme Court held as follows:-

"Para 70. Before parting with the case, we deem it necessary to emphasise that despite wide powers conferred by Articles 32 and 226 of the Constitution, while passing any order, the Courts must bear in mind certain self-imposed limitations on the exercise of these Constitutional powers. The very plenitude of the power under the said Articles requires great caution in its exercise. In so far as the question of issuing a direction to the CBI to conduct investigation in a case is concerned, although no inflexible guidelines can be laid down to decide whether or not such power should be exercised but time and again it has been reiterated that such an order is not to be passed as a matter of routine or merely because a party has levelled some allegations against the local police. This extra-ordinary power must be exercised sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility and instil confidence in investigations or where the incident may have national and international ramifications or where such an order may be necessary for doing complete justice and enforcing the fundamental rights. Otherwise the CBI would be flooded with a large number of cases and with limited resources, may find it difficult to properly investigate even serious cases and in the process lose its credibility and purpose with unsatisfactory investigations. "

16. In the judgment reported in (2014) 11 S.C.C. 527 in (Sudipta Lenka Vs. State of Odisha and others) it is observed as follows:-

" Para 15. The position has also been succinctly summed up in Disha Vs. State of Gujarat, (2011) 13 S.C.C. 337 : (2012) 2 S.C.C. (Cri.) 628 to which one of us (the learned Chief Justice) was a party by holding that transfer of the investigation to the Central Bureau of Investigation or any other specialised agency, notwithstanding the filing of the chargesheet,

would be justified only when the Court is satisfied that on account of the accused being powerful and influential the investigation has not proceeded in a proper direction or it has been biased. Further, investigation of a criminal case after the charge-sheet has been filed in a competent court may affect the jurisdiction of the said court under Section 173 (8) of the Code of Criminal Procedure. Hence, it is imperative that the said power, which, though, will always vest in a constitutional court, should be exercised only in situations befitting, judged on the touchstone of high public interest and the need to maintain the Rule of law ".

17. In the judgment reported in (2012) 3 S.C.C. 126 in (Azija Begum Vs. State of Maharashtra and another), it is held as follows:-

" Para 12 The legal framework of investigation provided under our laws cannot be made selectively available only to some persons and denied to others. This is a question of equal protection of laws and is covered by the guarantee under Article 14 of the Constitution.

Para No. 13 The issue is akin to ensuring an equal access to justice. A fair and proper investigation is always conducive to the ends of justice and for establishing the rule of law and maintaining proper balance in law and order. These are very vital issues in a democratic set up which must be taken care of by the courts."

18. In the judgment reported in (2013) CrI.L.J. 3227 (supra), it is held as follows:-

" 12. The investigation into a criminal offence must be free from any objectionable features or infirmities which may give rise to an apprehension in the mind of the complainant or the accused, that investigation was not fair and may have been carried out with some ulterior motive. The Investigating Officer must not indulge in any kind of mischief, or cause harassment either to the complainant or to the accused. His conduct must be entirely impartial and must dispel any suspicion regarding the genuineness of the investigation. The Investigating Officer, "is not merely present to strengthen the case of the prosecution with evidence that will enable the court to record a conviction, but to bring out the real unvarnished version of the truth." Ethical conduct on the

part of the investigating agency is absolutely essential, and there must be no scope for any allegation of mala fides or bias. Words like 'personal liberty' contained in Article 21 of the Constitution of India provide for the widest amplitude, covering all kinds of rights particularly, the right to personal liberty of the citizens of India, and a person cannot be deprived of the same without following the procedure prescribed by law. In this way, the investigating agencies are the guardians of the liberty of innocent citizens. Therefore, a duty is cast upon the Investigating Officer to ensure that an innocent person should not suffer from unnecessarily harassment of false implication, however, at the same time, an accused person must not be given undue leverage. An investigation cannot be interfered with or influenced even by the courts. Therefore, the investigating agency must avoid entirely any kind of extraneous influence, and investigation must be carried out with equal alacrity and fairness irrespective of the status of the accused or the complainant, as a tainted investigation definitely leads to the miscarriage of criminal justice, and thus deprives a man of his fundamental rights guaranteed under Article 21 of the Constitution. Thus, every investigation must be judicious, fair, transparent and expeditious to ensure compliance with the rules of law, as is required under Articles 19, 20 and 21 of the Constitution. (Vide: Babubhai v. State of Gujarat & Ors., (2010) 12 SCC 254) : (2010) AIR SCW 5126.

13. In Ram Bihari Yadav v. State of Bihar & Ors., AIR 1998 SC 1850, this Court observed, that if primacy is given to a designed or negligent investigation, or to the omissions or lapses created as a result of a faulty investigation, the faith and confidence of the people would be shaken not only in the law enforcing agency, but also in the administration of justice.

A similar view has been re-iterated by this Court in Amar Singh v. Balwinder Singh & Ors., AIR 2003 SC 1164 : (2003) AIR SCW 717.

Furthermore, in Ram Bali v. State of Uttar Pradesh, AIR 2004 SC 2329, it was held by this Court that the court must ensure that the defective investigation purposely carried out by

the Investigating Officer, does not affect the credibility of the version of events given by the prosecution.

14. Omissions made on the part of the Investigating Officer, where the prosecution succeeds in proving its case beyond any reasonable doubt by way of adducing evidence, particularly that of eye-witnesses and other witnesses, would not be fatal to the case of the prosecution, for the reason that every discrepancy present in the investigation does not weigh upon the court to the extent that it necessarily results in the acquittal of accused, unless it is proved that the investigation was held in such manner that it is dubbed as "a dishonest or guided investigation", which will exonerate the accused. (See: Sonali Mukherjee v. Union of India, (2010) 15 SCC 25; Mohd. Imran Khan v. State Government (NCT of Delhi), (2011) 10 SCC 192; Sheo Shankar Singh v. State of Jharkhand & Anr., AIR 2011 SC 1403; Gajoo v. State of Uttarakhand, (2012) 9 SCC 532; Shyamal Ghosh v. State of West Bengal, AIR 2012 SC 3539; and Hiralal Pandey & Ors. v. State of U.P., AIR 2012 SC 2541): (2012 AIR SCW 2503.

Thus, unless lapses made on the part of Investigating authorities are such, so as to cast a reasonable doubt on the case of the prosecution, or seriously prejudice the defence of the accused, the court would not set aside the conviction of the accused merely on the ground of tainted investigation."

19. In the judgment reported in (1993) Supp (4) S.C.C. 260 in (Union of India and others Vs. W.N.Chadha), it is held as follows:-

" Para 96 True, there are certain rights conferred on an accused to be enjoyed at certain stages under the Code of Criminal Procedure, such as Section 50, whenever the person arrested is to be informed of the grounds of his arrest and to his right of bail and under Section 57 dealing with person arrested not be detained for more than 24 hours and under Section 167 dealing with the procedure if the investigation cannot be completed in 24 hours which are all in conformity with the 'Right to Life' and 'Personal Liberty' enshrined

in Article 21 of the Constitution and the valuable safeguards ingrained in Article 22 of the Constitution for the protection of an arrestee or detenu in certain cases. But so long as the investigating agency proceeds with his action or investigation in strict compliance with the statutory provisions relating to arrest or investigation of a criminal case and according to the procedure established by law, no one can make any legitimate grievance to stifle or to impinge upon the proceedings of arrest or detention during investigation as the case may be, in accordance with the provisions of Code of Criminal Procedure."

20. Thus, following the above principles in mind, the case of the petitioner has to be examined to arrive at a conclusion, Whether the investigation has to be transferred from third respondent to the fourth respondent or not?

21. As stated supra, the deceased/Navaneethakrishnan was found missing from the Office on 10.12.2014. Hence, steps were taken by the Office Officials to contact him on 10.12.2014 from the evening till morning 11.12.2014, but, the efforts proved to be futile. Therefore, the family members of the deceased/Navaneethakrishna were informed about his missing. Thereafter, crime was registered on the complaint given by the de facto complainant/father of the deceased. It is also admitted by the de facto complainant that he was informed by the Officials of Horticulture Department about missing of his son and after enquiring his relatives and friends of the deceased, he gave report on 11.12.2014. Immediately thereafter, case was registered in Cr.No.391 of 2014 under the caption "Man Missing" and the de facto complainant, petitioner herein, Immanuel, Assistant Directors of Horticulture and first accused/Nagaraj were examined by the Investigating Officer on 11.12.2014, and it is seen from the statement of Nagaraj that he dropped the deceased in a two wheeler at about 6.00 p.m. in the bus stop opposite to BDO Office, Thally, and the deceased took the bus for Hosur.

22. The third respondent/Police also examined the de facto complainant/Mani and mother of the deceased, the petitioner herein, who have also stated during investigation on 11.12.2014 that the deceased was dropped by Nagaraj at 6.00 p.m on 10.12.2014, in the bus stop and the deceased boarded the bus to Hosur. The third respondent/Police also examined Immanuel on 16.12.2014, and on 12.12.2014, at about 7.30 he examined R.Kumar and Avinash, who were witness to the observation mahazar. The said R.Kumar and Avinash are Auto Drivers and they are having Auto Stand near BDO Office, Thally. The witness K.Rajkumar also corroborated the statement of Nagaraj, and stated that on 10.12.2014, at about 3.45 p.m., the deceased was taken by Nagaraj in a two wheeler towards Kutoor.

23. The third respondent/Police also examined another Auto Driver by name Ananth Kumar and enquired whether the deceased boarded into the Bus for Hosur on 10.12.2014 at 6.00 p.m., but the said witness was unable to give any answer and he has stated that he has not seen whether the deceased boarded into the bus on the said date at that point of time. The witness by name Vijayalakshmi, is running a Tea Stall opposite to the Horticulture Department, Thally, and she also stated that on 10.12.2014, at about 3.45 p.m. Nagaraj came to her shop and asked her to give two cups of tea and one cup of milk, as per the request of Kumar, the Assistant Director of Horticulture, and thereafter, the deceased and Nagaraj started moving in a two wheeler belonged to Nagaraj towards Kutoor. The witness/Mallama is also running a Tea Stall opposite to BDO Office, Thally, and she was not able to give any information regarding the movements of the deceased with Nagaraj during the relevant point of time.

24. Silambarasan is working as Supervisor in the Pentagon Company and he has undertaken the construction of a building for Indo-Israel Project on Centre of Excellence for cut-flowers (CEC project site) at Thally Block, Krishnagiri District. He also stated that the accused Nagaraj used to take the deceased in a two wheeler, whenever the deceased wanted to go to his native place, and even for going to the Office, he used to come in a two wheeler driven by Nagaraj and Nagaraj was always found with the deceased, and on 10.12.2014, at about 3.00 p.m, the deceased went with Nagaraj in his two wheeler, and he, (viz., Silambarasan) and Prabhu, along with three others went to Hosur for purchase of clothes and when they returned back, the deceased was not found in the room and when they asked about the same, the cook K.Veeramani stated that he was told by Nagaraj that the deceased went to his native place, and asked him (Nagaraj) to get his bag. The witnesses A.Santhosh Kumar and Megan also corroborated the evidence of Silambarasan.

25. The witness-K.Veeramani stated that on 10.12.2014, at about 3.00. p.m., the deceased went with Nagaraj, and thereafter, in the evening at about 6.00 p.m., the said Nagaraj came to the room of the deceased and took bag of the deceased, stating that he was asked by the deceased to take the bag. The witness-Elappan also corroborated the evidence of K.Veeramani to the effect that the deceased was taken by Nagaraj at about 3.00 p.m on 10.12.2014. The witness-Rajappa also corroborated the evidence of Elappan. The witnesses, Manjamma, Mariyamma, and Dassraj also stated that the deceased went with Nagaraj on 10.12.2014, about 3.00 p.m. The witness-Senthil, working as AAO, also corroborated the evidence of Prabhu and Santhosh Kumar, to the effect that the deceased was taken by Nagaraj in a two wheeler on 10.12.2014 at 3.00 p.m and said Nagaraj also informed that he boarded the deceased in a bus at 6.00 p.m. on 10.12.2014.

26. The witnesses, Narasimamoorthy, Mohanramesh, Bemini Dharmaraj and Chidambaram were examined on 12.12.2014, and it is seen from the statements of those persons that the deceased Navaneethakrishnan informed them about the surprise visit of Managing Director to their Office on 11.12.2014, and thereafter, the mobile phone connection of the deceased was switched off from 5.30 p.m. onwards on 10.12.2014. The Police also examined Kalaiselvi, Joint Director of Horticulture, Immanuel and Kannan on 16.12.2014 and also examined Kumar, Madavan and Mujibkhan on 17.12.2014.

27. As stated supra, the body of the deceased was detected on 15.12.2014 from the septic tank at the Horticulture Department. Earlier to that, CCTV footage obtained from ATM Centre also revealed the involvement of Muniraj in the crime, and he also gave confession regarding the occurrence.

28. The main contention of the learned counsel appearing for the petitioner is that the murder was not taken place for gain, if it is so, then, the accused would have withdrawn entire amount from the account of the deceased, and would have also taken the golden ring from the dead body after murder. Hence, the case of the prosecution that the murder was caused for gain, cannot be accepted. According to the learned counsel appearing for the petitioner the higher officials employed in the Horticulture Department indulged in certain acts of corruption, and apprehending that the deceased, who is an honest Officer, would expose their corrupt practices to the Director, who was going to visit the Department on 11.12.2014, planned to murder the deceased.

29. According to me, the arguments of the learned counsel appearing for the petitioner are only based on surmises and conjectures and no materials were furnished by him proving those allegations. The fact that the deceased was last seen with Nagaraj on 10.12.2014, at 6.00 p.m., and Nagaraj came to the room of the deceased and took his bag as spoken to, by other inmates of the deceased, would prima facie implicate the said Nagaraj with the crime. As per the post mortem report, some injuries were found on the body of the deceased and from that, we cannot come to conclusion that the deceased would not have been murdered in the manner, as confessed by Nagaraj.

30. The one other main submission of the learned counsel appearing for the petitioner is that messages were sent by the first accused/Nagaraj, revealing the involvement of C.Kumar in the crime, and despite the same, no action was taken by the respondent/Police to arrest the said C.Kumar. As rightly submitted by the learned Public Prosecutor for respondents 1 to 3 messages might have been sent by first accused/Nagaraj to mislead investigation of the case. As a matter of fact, C.Kumar was also examined with reference to the messages implicating him, and having regard to the statements of

Office Officials and also the inmates of the room, where the deceased stayed, and having regard to the fact that the Muniraj was found withdrawing money from ATM Centre from the account of the deceased through CC TV footage, and Nagaraj was last seen with the deceased at 6.00 p.m, and he died, in my opinion, the third respondent/Police have properly conducted investigation and investigation is also on the proper direction.

31. In the judgment reported in (1993) Supp (4) S.C.C. 260 (supra), it is held that, "so long as the investigating agency proceeds with his action or investigation in strict compliance with the statutory provisions relating to arrest or investigation of a criminal case, no one can make any legitimate grievance to stifle or to impinge upon the proceedings. In the judgment reported in (2013) CrI.L.J. 3227 (supra), it is held that, "Duty is cast upon the investigating officer to ensure that an innocent person should not suffer from unnecessary harassment of false implication, however, at the same time, an accused person must not be given undue leverage. It is further held in the said judgment that, investigation must avoid entirely any kind of extraneous influence, and it must be carried out with equal alacrity, fairness, irrespective of the status of the accused or the complainant.

32. In the judgment reported in (2004) S.C 2329 in re (Ram Bali Vs. State of Uttar Pradesh), which was relied upon by the Hon'ble Supreme Court in the judgment reported in (2013) CrI.L.J. 3227 (supra), it is held that the Court must ensure that the defective investigation purposely carried out by the Investigating Officer does not affect the credibility of the version of events given by the prosecution. It is further held that, unless, lapses are made on the part of investigating authorities so as to cast a reasonable doubt on the case of the prosecution, or serious prejudice is to be caused to the defence of the accused, the accused cannot be acquitted merely on the ground of tainted investigation.

33. According to me, having regard to the statement of witnesses, referred to above, and the manner of investigation, as found fully in the Case Diary, investigation is being done in a proper manner by the third respondent/Police and there is no necessity for transferring the investigation to the fourth respondent, and the evidence and statement of witnesses only lead to the filing of chargesheet against the accused Nagaraj and Muniraj, and no materials were found during investigation regarding the involvement of other Officials and the petitioner also did not produce any material to implicate other officials in the commission of crime and the submissions of the learned counsel appearing for the petitioner regarding the involvement of other Officials are only based on surmises and conjectures and there is no proof for the same. Hence, I do not find any merit in this Petition.

34. In the result, the Criminal Original Petition is dismissed. Consequently connected M.P. is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sd
To

1. The Director General of Police,
Kamarajar Salai,
Mylapore, Chennai - 600 004.
2. The Superintendent of Police,
Krishnagiri District, Krishnagiri.
3. The Inspector of Police,
Thally Police Station,
Krishnagiri District.
4. The Joint Director,
Central Bureau of Investigation,
Chennai.
5. The Public Prosecutor,
High Court, Madras.

1 cc to Mr.N.Manokaran, Advocate SR.24077

Crl.O.P.No.3611 of 2015

RJ(CO)
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