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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.06.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

CRL.O.P(MD)Nos.6011 & 6012 of 2015

Sobitham

... Petitioner in both Crl.O.P's

Vs.

1.The Superintendent of Police,
Kanyakumari District.

2.The Inspector of Police,
Aralvaimozhi Police Station,
Kanyakumari District.

3.The Additional Inspector General of Police,
CBCID, Head Quarters,
Egmore,
Chennai.

... Respondents in both Crl.O.P's

Common Prayer: Criminal Original Petitions are filed under Section 482 of the Code of Criminal Procedure, 1973 praying to direct the respondents to withdraw the investigation in connection with Crime Nos.458 of 2014 and 467 of 2014 respectively pending on the file of the second respondent and entrust the same to any other competent officer of the third respondent and to investigate the same in accordance with law within the time limit fixed by this Court and pass such further or other orders.

For Petitioner : Mr.C.Christopher
(in both Crl.O.P's)

For Respondents : Mrs.S.Prabha
(in both Crl.O.P's) Government Advocate (Crl. Side)

COMMON ORDER

These Criminal Original Petitions have been filed seeking transfer the investigation from the respondent No.2 to any other competent officer of the third respondent and to investigate the same in accordance with law.

2. The petitioner is the mother-in-law of the deceased No.1 and mother of the deceased No.2. D.1 and D.2 are the husband and wife and D.3 is their adopted daughter.

3. D.2 and D.3 were found dead within the house. D.1 was found dead on his way home.



4. The petitioner has filed these Criminal Original Petitions alleging that it is not a case of murder for gain, but a predetermined motive. As there is no other legal heir for the deceased Nos.1 and 2, the relatives must have committed the murder.

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5. The learned counsel for the petitioner brought forth the following circumstances.

6. The Inspector's reports though cannot be take a such due diligence that cash and jewels were found, but not taken of from the body of D.2 Thalli was recovered and handed over to the petitioner. If it is a murder for gain, first thing is that the accused must take the Thalli. Though there were three dogs within the house, they did not sound any alarm, which leads to the inference that the accused were well known to them. The alleged occurrence is said to have happened at about 08.00 p.m., in a place where there is heavy traffic. The place of occurrence was also adjoining the road. The jewels have been given to the petitioner and thereafter taken back and they have been shown as recovered. One of the brother of D.1 has been absconding till now. There are multiple injuries on the bodies of D.2 and D.3. If one person has committed the offence, there cannot be any possibility for both cut injuries and stab injuries. The Investigating Officer has not investigated the same in these lines.

7. The learned Government Advocate (Criminal Side) based upon the counter-affidavit and on production of the records submitted that recovery has been made under Section 27 of the Indian Evidence Act. It is a case of murder for gain. The accused first committed the alleged offence over D.1 and thereafter on D.2 and D.3. He is also a known person. The investigation is proceeding in the right direction.

8. This Court has perused the records. The report of the Doctors would clearly establishes the fact that there are both cut and stab injuries and there are multiple injuries found on the bodies of D.2 and D.3. D.1 was also found with Thalli. If it is a murder for gain, then it cannot be said that Thalli would be left untouched and the accused would search in other places to take the cash and jewels.

9. In the light of the discussion above, this Court is of the view that the matter will have to be transferred to some other agency by respondent No.1. *Prima facie* it appears that the offence must have been done by more than one person.

10. Accordingly, the respondent Nos.1 and 2 are directed to hand over the case to the CBCID, Kanyakumari District for further investigation. The said exercise will have to be done within a period of two weeks from the date of receipt of a copy of this order.

11. With the above direction, these Criminal Original Petitions are disposed of.

Sd/-

Assistant Registrar(Per.Admn.)



To

1.The Superintendent of Police,
Kanyakumari District.

2.The Inspector of Police,
Aralvaimozhi Police Station,
Kanyakumari District.

3.The Additional Inspector General of Police,
CBCID, Head Quarters,
Egmore,
Chennai.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.C.Christopher, Advocate Sr.No.32034

ps

akm/30.06.15 /3p-6c/

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