

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28.03.2016

CORAM

THE HONOURABLE MS. JUSTICE R.MALA

Crl.O.P.No.27758 of 2015

1.Nataraj
2.Palaniammal

.. Petitioners

Vs.

1.The Commissioner of Police,
Tiruppur District,
Sirupuluvapatti, Tiruppur.

2.The Superintendent of Police,
Angeripalayam Road, Tiruppur.

3.The Inspector of Police,
15, Velampalayam Police Station,
Tiruppur.

.. Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C., to direct transfer of the investigation in Cr.No.254 of 2015 on the file of the third respondent police to any other investigation agency.

For Petitioners : Mr.K.Govi Ganesan

For Respondents : Mr.C.Emalias
Additional Public Prosecutor

सतममेन जयते
O R D E R

The petitioners have come forward with this petition seeking for a direction to transfer the investigation in Crime No.254 of 2015 on the file of the third respondent police to any other investigation agency.

2.The petitioners are the parents of the deceased / Saradhambal. Saradhambal's husband is Sivasubramaniam and they are having two children, namely, Shobana / de facto complainant and one Navindran / another deceased. On 05.05.2015, at about 7.00a.m., one Stalin has murdered Saradhambal, Sivasubramaniam, Navindran and also caused injury to Shobana. On the basis of the complaint given by Shobana, a case in Crime No.254 of 2015 has been registered for alleged offences punishable under Sections 448, 324 and 302 of IPC and the investigation has been conducted by the third respondent.

During the pendency of the investigation, the petitioners have come forward with this petition for transfer the investigation.

3.The learned counsel for the petitioners submitted that the murder shall not be committed by Stalin alone, it can be committed at the instigation of enemies of the deceased / Sivasubramaniam, who is belonging to one political party. There was a rivalry group, which was headed by S.P.Mani and on the instigation of S.P.Mani, the murder has been occurred. He further submitted that there was a business enmity between one Nataraj, who is one of the petrol bunk owner, doing real estate business and the deceased / Sivasubramaniam, he also instigated for commission of murder. He also submitted that one Selvaraj and Karthick are also responsible for commission of murder, so the investigation has not been done by the respondent properly. Hence, they come forward with this petition for direction to transfer the investigation.

4.Resisting the same, learned Additional Public Prosecutor would submit that the case is based on eye-witness, the injured eye-witness has given complaint and on the basis, the case has been registered and the investigation has been done and charge sheet also filed. The accused has arrested and on the basis of his confession, Section 27 recovery has been made and there is no whisper about the other parties. Now, with a view to drag on the proceedings and roping the enemy of the deceased / Sivasubramaniam, the complaint has been given. Hence, he prayed for the dismissal.

5.Considering the rival submission made on both sides and on perusal of the typed set of papers, the alleged occurrence has taken place on 05.05.2015 and the case is solely based on eye-witness / Shobana. As soon as Shobana / the de facto complainant was admitted in the hospital, the statement has been recorded and the case has been registered. In her statement, it is specifically mentioned that since her father is doing water business, his brother Navindran has engaged Stalin, as a driver and her father gave Rs.15,000/- to Stalin as advance to settle the amount to his previous owner. But, the accused returned the duty after 15 days, which was questioned by the deceased / Sivasubramaniam and also Navindran and they also abused him. Enraged over the same, Stalin has committed the murder. The representation has been given by the petitioners on 12.09.2015 after four months.

6.Even though the case has been registered on the basis of direct eye-witness and the investigation is going on, now to rope the enemies of the petitioner and his son-in-law / Sivasubramaniam, the present representation has been given after four months, which shows his malafide intention for transferring the investigation to some other investigation agency.

7.In such circumstances, I do not find any reason for transferring the investigation and hence, this petition is deserves to be dismissed as devoid of merits. Accordingly, the Criminal Original Petition is dismissed.

Sd/-
Assistant Registrar(AS)

//True Copy//

Sub Assistant Registrar

sri

To

- 1.The Commissioner of Police,
Tiruppur District,
Sirupuluvapatti, Tiruppur.
- 2.The Superintendent of Police,
Angeripalayam Road, Tiruppur.
- 3.The Inspector of Police,
15, Velampalayam Police Station,
Tiruppur.
- 4.The Additional Public Prosecutor
High Court, Chennai.

+1cc to Mr.R. Goviganesan, Advocate, S.R.No.19248

MSM(CO)
EU(22/04/2016)

Cr1.O.P.No.27758 of 2015

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