

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2016

CORAM :

THE HONOURABLE MS.JUSTICE R.MALA

Cr1.O.P.No.30632 of 2015

and

M.P.No.1 of 2015

B.Partheeban

S/o.Late V.Bakthavachalam

... Petitioner

Vs.

Station House Officer

Nettapakkam Police Station

Puducherry

... Respondent

Prayer:

Petition filed under Section 482 of Cr.P.C. to direct the respondent police to carry further investigation in the case in C.C.No.570 of 2015 pending on the file of the learned Judicial Magistrate - I, Puducherry.

For Petitioner : Mr.R.Thiagarajan

For Respondents: Mr.V.Balamurugane,
A.P.P., (Pondicherry)

O R D E R

Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor (Pondicherry) appearing for the respondent.

2. The petitioner who is none other than the son of Late Bakthavachalam, who is alleged to be an accused in Crime No.16/2014 has come forward with the present petition seeking for a direction to the respondent for re-investigating the case in C.C.No.570 of 2015 pending on the file of the learned Judicial Magistrate - I, Puducherry. The gist of the case is that on 24.02.2014 at 10.25 A.M, there was a quarrel in the arrack shop at Vadukuppam, which resulted in the filing of two FIRs viz., Crime No.16 of 2014 registered on the basis of the complaint preferred by Tamilmani and Crime No.17 of 2014 registered on the basis of the complaint preferred by Panchamoorthy.

3. In Crime No.17 of 2014, the investigation was completed and final report was filed and it was taken on file as C.C.No.570 of 2015. Now, the son of one Bakthavachalam, who died of injuries sustained in the said incident has come forward with the present petition for further investigating the case in C.C.No.570 of 2015. The learned counsel appearing for the petitioner would raise the following points:

(i) Even though the deceased Bakthavachalam was not in a position to give a complaint, on the basis of the oral complaint given by one Panchamoorthy, a case in Crime No 17/2014 was registered under Sections 323, 324, 506(ii) IPC r/w 34 IPC, whereas on the basis of the complaint given by Tamilmani who is arrayed as A1 in Crime No.17/2014, a case in Crime No.16/2014 came to be registered. Further, the learned counsel pointed out the discrepancy in the final report that in the list of witnesses, the name of the Bakthavachalam, who died on 05.03.2014 has been mentioned. The said Bakthavachalam is alleged to have been arrested on 24.02.2014 and remanded in judicial custody till 03.03.2014 and he died on the very next day of his release. However, as if he was examined, the 161 statement of Bakthavachalam has been filed and he was shown as a living person.

(ii) At the time of filing the final report, the wound certificate has been filed. But the nature of injuries sustained by the late Bakthavachalam was not specified therein and it was only stated that the original O.P slip is not available and hence, the final opinion cannot be given. So, it is defective in nature.

(iii) During the course of the investigation, one Palani was examined as witness. Even though his name does not find place in the FIR, he has narrated the facts and circumstances in which the incident took place and he has also specifically stated that the deceased Bakthavachalam sustained injuries. The photographs filed in the typed set of papers would show that deceased Bakthavachalam had sustained injuries in the forehead.

4. At the time of the arguments, the learned Additional Public Prosecutor (Pondicherry) would submit that in Crime No.16/2014, the chargesheet has been levied and final report has been filed under Section 294(b), 323, 324, 506(ii) r/w 34 IPC. But admittedly, the case in Crime Nos.16 and 17 of 2014 are case in counter. As per the Police Standing Order, while dealing with the case in counter, the Investigating Officer during the course of his investigation must identify the aggressor and only on that basis he must file the final report. However, in the instant case, the Investigating Officer has filed the final report in both the Crime Nos.16 and 17 of 2014 which would show the malafide intention of the Investigating Officer to help the accused Tamilmani.

5. Thus, I am of the view that the Investigating Officer has not dealt with the matter in a proper manner and hence, it required further investigation. Accordingly, the Superintendent of Police, CBCID, Puducherry is directed to further investigate the case in C.C.No.570 of 2015 in connection with Crime No.17/2014 and also the case in Crime No.16/2014 and file a final report, after examining all the witnesses and also obtain the A.R copy of the deceased Bakthavachalam, Panchamoorthy and Venkadesan. Furthermore, the Investigating agency is directed to conduct the investigation without being influenced by the final report already filed in Crime Nos.16 and 17 of 2014.

6. The Criminal Original Petition is disposed of accordingly. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

pgp

To

1.Station House Officer
Nettapakkam Police Station
Puducherry

2.The Public Prosecutor (Pondicherry)
High Court, Madras

3.The Superintendent of Police (CBCID)
Puducherry

+ 1 cc to Mr.Thiagarajan, Advocate Sr.10887

Cr1.O.P.No.30632 of 2015

SNS (CO)
Eu 26.02.16

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