

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.11.2016

CORAM:

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Cr1.O.P. No.8159 of 2016

Manjari

Petitioner

vs.

- 1 The State of Tamil Nadu
represented by its Secretary
Home Department
Chennai 600 009
- 2 The Assistant Commissioner
Pulianthope
Chennai 600 012
- 3 The Inspector of Police
P.6, Kodungaiyur Police Station
Chennai 600 118
(Cr. No.340 of 2013)

Respondents

Criminal Original Petition filed under Section 482 Cr.P.C., seeking a direction to the first respondent to transfer the investigation in Cr. No.340 of 2013 from the file of the Assistant Commissioner of Police, Pulianthope, Chennai 600 012, the second respondent herein, to C.B.I., Chennai, to secure the ends of justice.

For petitioner Mrs. Manjari - Party-in-person
For respondents Mr. C. Emalias
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed seeking a direction to the first respondent to transfer the investigation in Cr. No.340 of 2013 from the file of the Assistant Commissioner of Police, Pulianthope, Chennai 600 012, the second respondent herein, to the C.B.I., Chennai, to secure the ends of justice.

2.1 On the complaint lodged by Manjari, the petitioner

herein, that her husband Sekar had gone missing, the Inspector of Police, P-6, Kodungaiyur Police Station, registered a case in Cr. No.340 of 2013 on 13.12.2013 for "man missing". Manjari filed H.C.P. No.256 of 2013 before this Court for production of her husband. She filed W.P. No.28906 of 2013 also seeking transfer of investigation in Cr. No.340 of 2013 from the file of P-6, Kodungaiyur Police Station to the C.B.I.

2.2 A Division Bench of this Court, in which I was a member, heard H.C.P. No.256 of 2013 and W.P.No.28906 of 2013 and passed the following order on 11.08.2014:

"8. Heard the submissions made on either side. We have also perused the documents made available on record including the status report dated 24.06.2013 filed by the Inspector of Police, P6, Kodungaiyur Police Station and the status report dated 22.07.2014 filed by the Assistant Commissioner of Police, MKB Nagar Range.

9. A perusal of both the status reports would clearly show that all possible steps have been taken by the respondent police to trace out the detenu. Despite that, no positive clue has been obtained so far. Hence, this Court is of the considered view that no useful purpose would be served in keeping the Habeas Corpus Petition pending before this Court endlessly, excepting directing the Assistant Commissioner of Police, MKB Nagar Range, to continue the investigation in the said case.

10. With regard to writ petition, as we are satisfied with the steps taken by the respondent police, we are not inclined to consider transferring the investigation. Hence, the writ petition is dismissed as devoid of merits. No costs.

11. Accordingly, the Assistant Commissioner of Police, MKB Nagar Range, who is present before us, is hereby directed to continue the investigation in the case in Cr. No.340 of 2013 registered by P6 Kodungaiyur Police Station and if any progress is made, the same shall be communicated to the petitioner herein and the petitioner herein is also directed to be in touch with the Assistant Commissioner of Police, MKB Nagar, to know the further progress made by them in the investigation. If the petitioner approaches the Assistant Commissioner of Police, MKB Nagar, he shall take personal interest and must provide all necessary information with regard to the steps taken by them in

tracing the detenue, courteously to her.

12 In the result, the writ petition is dismissed and the Habeas Corpus Petition is disposed of with the above direction."

2.3 In H.C.P. No.256 of 2013, Manjari had impleaded one Umadevi, daughter of Sekar, born through his first wife and also one Nandha @ Anand. Umadevi was present before the Division Bench on 30.07.2014 and the Division Bench heard the parties and passed the aforesaid order.

3 Now, Manjari has filed the present Criminal Original Petition seeking a direction to transfer Cr.No.340 of 2013 from the file of Kodungaiyur Police Station to the C.B.I.

4 It may be relevant to state here that Manjari claimed the same relief as sought in the present Criminal Original Petition, in W.P. No.28906 of 2013 and this Court had negatived it by order dated 11.08.2014, as aforestated.

5 Mr. A. Kumar, Special Sub Inspector of Police, P6, Kodungaiyur Police Station is present.

6 On instructions, the learned Additional Public Prosecutor submitted that the Assistant Commissioner of Police, Kodungaiyur Police Station, conducted investigation in Crime No.340 of 2013 and during the course of investigation, it came to light that on 22.11.2013, Sekar was found near the Dental College afflicted by fits and one passer-by by name Kutty called 108-Ambulance and admitted Sekar to Rajiv Gandhi Government General Hospital, Chennai, where, he died on 23.11.2013. Since there was nobody to claim his body, the hospital authorities informed the jurisdictional police, based on which, a case in C-1, Flower Bazaar P.S. Cr. No.1990 of 2013 was registered under Section 174 Cr.P.C. and after inquest and other formalities, the body was buried in Moolakothalam burial ground. Sekar's children, viz., Umadevi and Senthil and grand children, viz., Sathish Kumar and Arun Kumar and other relatives identified Sekar with photographs. Manjari was also informed about the investigation and ultimately, the case in Cr. No.340 of 2013 has been closed under due intimation to Manjari.

7 Under such circumstances, this Court does not find any merit for ordering transfer of investigation as prayed for by Manjari.

8 Manjari, party-in-person submitted that she is entitled to family pension.

9 This Court cannot give any finding on this aspect, since, there is no material before this Court to show that Manjari is the legally wedded wife of Sekar. It is always open to Manjari to approach the authorities and stake her claim by establishing that she is entitled to family pension.

This Criminal Original Petition is dismissed with the above observations.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

cad

To

- 1 The Secretary
Home Department
Government of Tamil Nadu
Chennai 600 009
- 2 The Assistant Commissioner
Pulianthope
Chennai 600 012
- 3 The Inspector of Police
P.6, Kodungaiyur Police Station
Chennai 600 118
- 4 The Public Prosecutor
High Court of Madras

+lcc to Mr.S. Manjari, Advocate, S.R.No.69845

ppa (CO)
md(09/12/2016)

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