

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.08.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

Crl.O.P.No.15108 of 2016

Victoria Aruldoss

..

Petitioner

Vs.

1.The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore,
Chennai-600 004.

2.The Commissioner of Police,
Greater Chennai Police,
No.132, Commissioner Office Building,
EVK Sampath Road,
Vepery, Chennai-600 007.

3.The Inspector of Police,
K7 Police Station,
East Colony ICF Colony,
Chennai-600 038.

4.Adlin Mannah

5.Raja Pandian

6.Mrs.Raja Pandian

7.The Inspector of Police,
CBCID, Chennai District.

..

Respondents

WEB COPY

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to direct the respondents police 1 and 2 to transfer investigation in Cr.No.1852 of 2015 pending on the file of the third respondent police to the seventh respondent for conducting reinvestigation in the above case and further direction to file the final report within the time frame as fixed by this Court.

For Petitioner : Ms.Gladys Daniel

For Respondent : Mr.P.Govindarajan, APP
Nos.1 to 3, 7

For Respondent : Mr.D.Simon
Nos.4 to 6

ORDER

Heard Ms.Gladys Daniel, learned counsel for the petitioner and Mr.P.Govindarajan, learned Additional Public Prosecutor appearing on behalf of the respondents 1 to 3 & 7 as well as Mr.D.Simon, learned counsel appearing for the respondents 4 to 6.

2.The case of the prosecution is as follows:

The petitioner's son Dr.Anil Lionel, who is the husband of the fourth respondent, had committed suicide by stabbing his neck with a kitchen knife on 06.10.2015. The incident was reported by the fourth respondent on 06.10.2015 at 9 hrs which was taken on file

by the respondent police and a case in Cr.No.1852 of 2015 under Section 174 Cr.P.C., was registered and further investigation was conducted. As per the investigation, it was revealed that the petitioner's son late Dr.Anil Lionel had been married to the fourth respondent about seven years prior to the occurrence and during their matrimonial life, they had frequent quarrels over family issues. On the date of occurrence at about 16 hrs, there was a quarrel between the petitioner's son and the fourth respondent and in sequent to it, the petitioner's son had entered into the kitchen and stabbed himself on the right side of his neck using a kitchen knife. Subsequently, when he was taken to the Southern Railway Hospital, Perambur, he was declared as "brought dead". According to the prosecution, the autopsy revealed that the death was due to shock and hemorrhages owing to the cut injury in the neck.

3.The learned counsel for the petitioner submitted that there was no fair and impartial investigation. According to the learned counsel for the petitioner, the respondent police have made contradictory statements pertaining to the occurrence and are colluding with the respondents 4 to 6 for the purpose of trying to cover up the case of murder to one of suicide. Since the

respondents 4 to 6 have muscle and money power along with political support, they have colluded with the respondent police to convert the case of murder into suicide. Hence, the petitioner has sought for transfer of investigation in Cr.No.1852 of 2015 to the CBCID, Chennai.

4.The learned Additional Public Prosecutor by relying on the counter affidavit filed by the respondents 1 to 3 and the case diary submitted that on information about the occurrence, the respondent had conducted a fair and impartial enquiry and during the course of enquiry, it was revealed that the case was one of suicide. The learned Additional Public Prosecutor also denied that the respondent police are colluding with the other respondents and that there was no basis for the petitioner to allege that their case is one of murder.

5.I have given careful consideration to the submissions made by the respective counsels.

6.One of the main reasons raised by the petitioner for the purpose of transfer of investigation is that, when the petitioner had

sought for certain information under the Right to information Act with regard to the occurrence, by a letter dated 03.06.2017, the Deputy Commissioner of Police, Kilpauk District, Chennai had replied that as soon as the petitioner's son was found with the stab injury, he was taken to the Railway Hospital, Perambur by the fourth respondent along with her mother-in-law who is the petitioner herein. Subsequently, through another letter dated 27.06.2017, the same Deputy Commissioner of Police, Kilpauk District, Chennai had stated that after the petitioner's son was found with the stab injury, his wife namely, the fourth respondent herein had taken him to the Railway Hospital. In the second letter dated 27.06.2017, the earlier statement that the fourth respondent's husband was taken to the hospital along with the petitioner was deleted. Incidentally, in the counter affidavit filed by the fourth respondent, she had stated that after the incident, her mother who is the sixth respondent herein fainted and therefore, the fourth respondent along with one Mr.Hari took her husband to the Railway Hospital, Perambur where he was declared as "brought dead". In view of the three different versions as to who had accompanied the petitioner's deceased son to the hospital, the learned counsel for the petitioner submitted that the

respondent police are trying to cover up the true facts of the case with different versions for the purpose of converting the case of murder to one of suicide. With regard to the controverting statements made by the respondent police in their reply to the petitioner's application under the Right to Information Act, an additional counter statement came to be filed by the Deputy Commissioner of Police, Kilpauk wherein it was stated that the deletion of the phrase in regard to the statement of the fourth respondent that while she was taking her husband to the hospital, she was accompanied by her mother-in-law came to be deleted owing to mistake, while cutting and pasting words in their computer file.

7. Though there could be a possibility that such a phrase would have been deleted owing to mistake while cutting and pasting words in the computer, such a statement cannot be easily brushed aside, particularly, in view of the categorical statement of the fourth respondent/wife in her counter affidavit that she was accompanied by one Hari while she took her husband to the Railway Hospital. In view of this statement of the wife, who is the prime eye witness, I am unable to comprehend as to how the

respondent police has come up with two statements after investigation, with regard to the persons who accompanied the fourth respondent and her deceased husband. This aspect is crucial in the investigation and I am of the view that the respondent police have very carelessly handled this aspect. In these circumstances, a serious doubt arises as to whether a proper preliminary enquiry was conducted by the police with regard to the death of the petitioner's son.

8. Yet another aspect which casts a doubt on the investigation conducted is that the respondent police had admitted that they have not recovered the weapon used on the body of the petitioner's son. It is needless to mention that the first thing that the Investigating Officer ought to have done is to recover the weapon used at the very first incident. By failure to make the recovery, it can only be construed that the Investigating Officer had even before conducting a preliminary enquiry, had hastily come to the conclusion that this was a case of suicide.

9. In the above circumstances, I am of the considered view that the investigation conducted so far has not only be done in an

impartial and unfair manner but also been very carelessly handled by the Investigation Officer. While that being so, it would not be appropriate to permit the third respondent to continue with the investigation.

10.The petitioner has made categorical statements in her petition, that the Investigating Officer has colluded with the respondents 4 to 6 and trying to cover up the case of murder and convert the same into one of suicide. Though such statements are subject to proof, it would be imprudent and be unfair for the third respondent to continue with the investigation.

11.For all the above said reasons, I am of the firm view that the investigation needs to be transferred to an independent agency for the purpose of conducting reinvestigation.

12.In the result, the Criminal Original Petition stands allowed. The investigation in Cr.No.1852 of 2015 pending on the file of the third respondent is ordered to be transferred to the seventh respondent/CBCID, Chennai for reinvestigation. Such reinvestigation shall be monitored by the Additional Director

General of Police, CBCID, Chennai who shall also appoint an appropriate Investigation Officer for the purpose of reinvestigation. It will be open to the seventh respondent to refer to the materials already available in Cr.No.1852 of 2015 for the purpose of such reinvestigation. The said process shall be completed within a period of three months from the date of receipt of a copy of this order.

21.08.2017

Index:Yes/No

DP

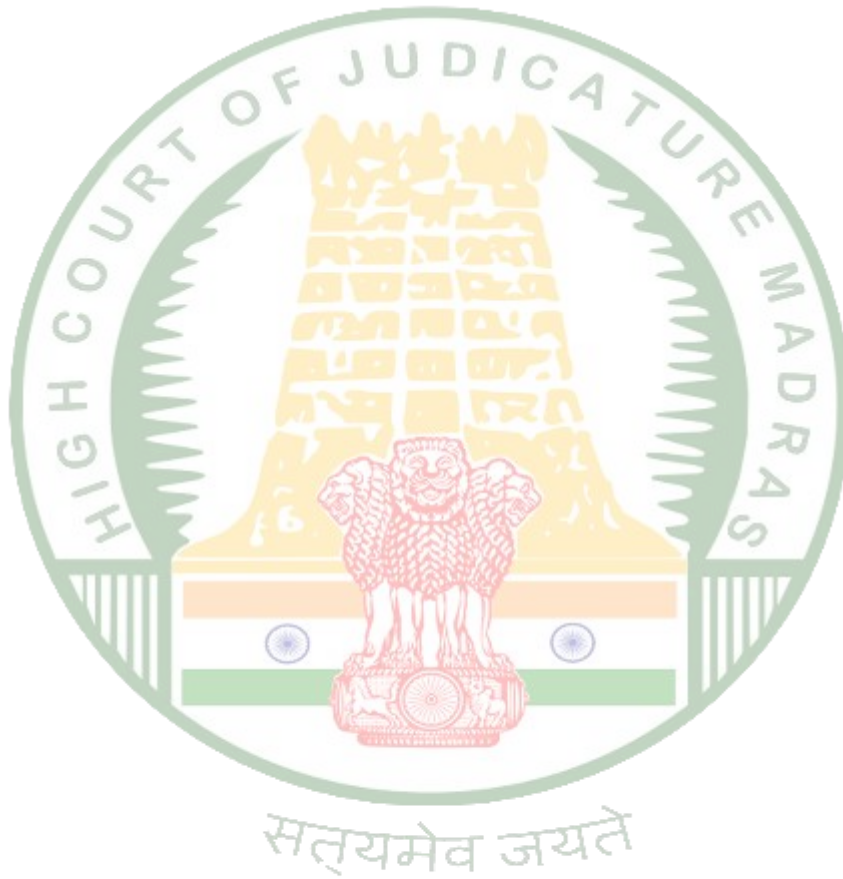
Note:Issue order copy on 21.09.2017

To

- 1.The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore,
Chennai-600 004.
- 2.The Commissioner of Police,
Greater Chennai Police,
No.132, Commissioner Office Building,
EVK Sampath Road,
Vepery, Chennai-600 007.

3.The Inspector of Police,
K7 Police Station,
East Colony ICF Colony,
Chennai-600 038.

4.The Public Prosecutor,
High Court, Madras.



WEB COPY

M.S.RAMESH.J,

DP



Crl.O.P.No.15108 of 2016

WEB COPY

21.08.2017