



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.11.2017

CORAM:

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THE HONOURABLE MR.JUSTICE A.M.BASHEER AHAMED

Cr1.O.P. (MD) No.22633 of 2014

[Orders Reserved on 27.04.2017]

R.Latha Ramajayam

: Petitioner

Vs.

1. The Director General of Police,
Police Head Quarters,
Office of Director General of Police,
Beach Road, Chennai.
2. The Inspector General of Police,
CBCID, CBCID Head Quarters,
Guindy, Chennai.
3. The Commissioner of Police,
Office of the Commissioner of Police,
Pudukottai Road, Opp.to Central Jail,
Subramaniya Puram,
Tiruchirapalli.
4. The Deputy Superintendent of Police,
CBCID, Having Office at Kajamalai,
Tiruchirapalli.
5. The Inspector of Police,
Thillai Nagar Police Station,
Thillai Nagar,
Tiruchirapalli - 18.
6. The Joint Director,
Central Bureau of Investigation (CBI),
III Floor, E.V.K.Sampathy Building,
College Road, Chennai.

: Respondent

Prayer: This Criminal Original Petition has been filed under Section 482 of Cr.P.C., praying to transfer the investigation in Crime No.128 of 2012 registered by the Inspector of Police, Thillainagar Police Station, Tiruchirappalli City, now investigated by the fourth respondent, to sixth respondent and direct him to nominate an efficient officer to investigate the same.



For Petitioner : Mr.R.Shanmuga Sundaram
Sr.Counsel for
Mr.S.Ravi, counsel on record

For Respondents : Mr.P.Kandasamy
(R1 to R5)

For Respondent No.6 : Mr.S.Jayakumar
Spl.Public Prosecutor for
CBI cases.

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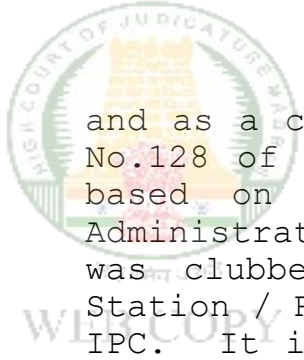
ORDER

This Criminal Original Petition has been filed to transfer the investigation in Crime No.128 of 2012 registered by the Inspector of Police, Thillainagar Police Station, Tiruchirappalli City, now investigated by the fourth respondent, to the sixth respondent and direct him to nominate an efficient officer to investigate the same.

2. The deceased Ramajayam is the husband of the petitioner and he is the younger brother of Thiru.K.N.Nehru, who is the District Secretary of DMK Political Party and also served as a Cabinet Minister on three terms in the Government formed by the DMK Party. The deceased is also the Chairman of CARE College, Trichy and he was closely associated with the DMK Political party and was a leading business man and he was the members of Builders Association and prestigious Clubs.

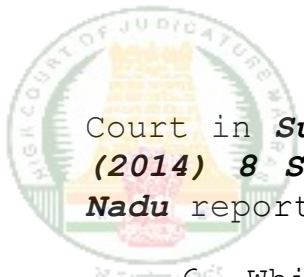
3. The allegation of the petitioner is that the deceased left the house for his regular morning walk on 29.03.2012 at about 5.15 a.m., and did not turn up on the said date till 7.45 a.m. The petitioner tried to call him over his mobile phone, but it was switched off at first instance and again the petitioner called her husband over phone. Latter, the said call was attended by strangers and immediately it was disconnected and thereafter, the petitioner received a phone call from one Gopalakrishnan working in CARE College and from one Anuradha working in Kishan Vigyan Kendra due to which the petitioner got suspicion and lodged a complaint at about 11.45 a.m., and a case was registered by the 5th respondent in Crime No.128 of 2012 for the offence under Section 365 of IPC.

4.The allegation of respondent No.4 is that on 29.03.2012 at 8.40 a.m., a Site Engineer at Ponni Delta Construction viz., S.Madhavan was informed by one Prasanth, a worker from Andhra Pradesh that he saw a dead body wrapped in a bed sheet on the Cauveri River Bed above 100 feets away from the site of Ponney Delta Construction and after confirming the above fact, the said Madhavan informed to his Managing Director Seetharaman, who in-turn informed the same to the Police Control Room, Trichy City at about 9.30 a.m., and who in-turn informed to the Sub Inspector of Police, Sri Rangan Police Station and thereafter, he rushed to the spot with Madhavan, where the dead body of a male person was found and subsequently, the dead body was identified by the son of the deceased as his father



and as a case was registered in Sri Rangam Police Station in Crime No.128 of 2012 under Section 302 IPC., on 29.03.2012 at 11.00 Hrs based on the complaint of one K.Balasubramanian, the Village Administrative Officer, Thimmarayasamuthra, Trichy. Then the case was clubbed with Crime No.128 of 2012 at Thillai Nagar Police Station / R5 and the Section was altered from 365 IPC., to 365 & 302 IPC. It is stated that the initial investigation was conducted by the supervision of the Assistant Commissioner of Police, Srirangam range under the direct supervision of DIG of Police Tiruchirappalli and the Superintendent of Police, Tiruvarur. In accordance with the orders of the Director General of Police, Tamil Nadu / R1, the case was transferred to CBCID Police from the file of the Inspector of Police, Thillai Nagar Police Station, Tiruchirappalli / R5, on 27.06.2012 and the 2nd respondent / the Inspector General of Police, CBCID, Chennai, / R2, deputed the Deputy Superintendent of Police, CBCID, Tiruchirappalli / R4, for investigating the case and is pending now on the file of the 4th respondent.

5. The learned counsel appearing for the petitioner would submit that though the said occurrence said to have taken place on 29.03.2012, there is no progress in the investigation and the respondents 1 to 4 are very reluctant in investigating the gruesome murder of the husband of the petitioner, since he was closely associated with DMK Party, which is politically opposed to the ruling party (AIADMK) and also happened to be a brother of Thiru.K.N.Nehru, the District Secretary of DMK and a former DMK Minister. Further he would continue to submit that valuable piece of evidence and witnesses to state about the leaving of the deceased were brought to the attention of respondents 1 to 5, but for the reasons best known to them R1 to R5 did not probe the clues properly and several phone calls and 1000 of persons were said to be traced and enquired by R1 to R5 on various aspects and the said investigation was leaked to press and visual media in order to balance the inability of R1 to R5 and false messages were spread over to tarnish his image and family deputation of the petitioner's family and R1 to R5 interrogated the family members of the petitioners and revealed many clues, which have been very useful and vital to the spearhead the investigation, but none was utilized in a proper manner so as to nab the culprits and those informations were neglected by R1 to R5 in view of the political background of the deceased and his elder brother. He would also submit that the investigation conducted by R1 to R5 is not inspiring any confidence and due to the inability of R1 to R5 in not tracing the culprits, they are not at all interested and their investigation is tainted and did not provide credibility and the petitioner apprehend that the 4th respondent will not investigate and find out the truth behind the murder due to political reasons and pressure and hence, in order to do the complete justice, it has become expedient and necessary to transfer the case, investigated by the 4th respondent to the 6th respondent and directed him to nominate an efficient officer to investigate of the same. The learned Senior Counsel, in support of his contention, has relied on the Judgment of the Hon'ble Supreme

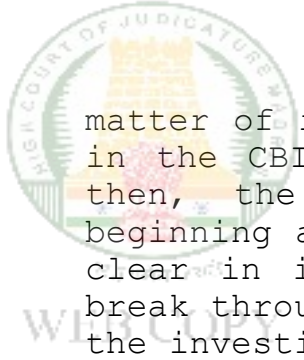


Court in ***Subrata Chatteraj Vs. Union of India and Others*** reported in (2014) 8 Supreme Court Cases 768 and in ***M.Ravi Vs. State of Tamil Nadu*** reported in (2016 (5) CTC 30).

6. While the case was taken up for hearing on 28.01.2015, the 4th respondent filed a Status Report, dated 21.01.2015, in which it is stated that in all 567 persons were enquired as to whether they saw Thiru. Ramajayam on their way in the enroute and enquiries were conducted near Mambalasalai and around Tiruvalar Solai with regard to movement of any suspicious vehicles or persons currently. Two additional Superintendent of Police, 30 Deputy Superintendent of Police, 14 Inspectors of Police and Police personnel are all on the job under the direct supervision of the Superintendent of Police, CBCID, South Zone, to detect the accused at the earliest. Hence, this Court in its order, dated 22.01.2015, granted a further till 10.03.2015, for investigation. While the case was taken up for hearing on 10.03.2015, the 4th respondent filed a Status Report, dated 10.03.2015 stating that two specific informations in this case were collected and full swing efforts are continuing to verify the said informations as early as possible and along with special team R4 is continuing his efforts with regard to the verification of motive of business, Kattapanchayat, extramarital affairs, political and involvement of rowdies with effective and sincere follow up to detect the case at an earliest and seeking two months further time. This Court considering the request of the Investigating Officer and also on the basis of the Status Report, vide order, dated 10.03.2015 granted time till 11.06.2016.

7. While the case was taken up for hearing on 12.06.2015, this Court has granted further time till 24.07.2017, considering the reasons that, if the investigation is transferred at this stage even to CBI, the CBI may have to commence the investigation from the Point No.1, which consumes considerable time and also the submissions by the counsel for the petitioner that, if positively it is stated by the respondent that the relevant culprits would be found out soon, for the present the petitioner may not have objections for them to do the investigation and even now the petitioner has got faith in the present investigation team and believes that they may crack the crime.

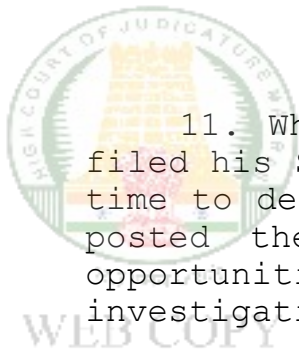
8. The 4th respondent filed a Status Report, dated 18.06.2015 and also the Status Report, dated 24.07.2017, while the case was taken up for hearing on 24.07.2017, this Court in its order dated 24.07.2017 granted time till 28.10.2015, as a last chance, considering the request made by Mr.Anbu, the Superintendent of Police, CBCID and Mr.Malaisamy, Inspector of Police, who were present in the Court, because they state that they have got some clues and they are under scanner, which would lead them to nab the accused soon by making a break through in the investigation and submissions made by the learned Special Public Prosecutor for CBI Cases appearing for R6 that the officers of CBCID of Government of Tamil Nadu, who are doing the investigation all are trained in the



matter of investigation and as a matter of fact, formerly they were in the CBI and if the case is transferred to CBI at this stage, then, the CBI officials may commence the investigation from beginning and it will consume some more time. This Court also made clear in its order that, if the investigation does not make any break through within the time, this Court will be forced to transfer the investigation to CBI and this time grants only as a last chance for the CBCID, on perusal of the Status Report, dated 18.06.2015, which reflects the same contents of the earlier Status Report.

9. While the case was taken on 28.10.2015, this Court extended time by 2 more months for the investigating Officer to complete the investigation till 18.12.2015, on perusal of the Status Report, dated 28.10.2015 filed by R4 that some progress has been made in the investigation, which may yield final result, in its order dated 28.10.2015 and posted the case to 18.12.2015. While the matter is taken up for hearing on 18.12.2015, the Status Report, dated 18.12.2015 was filed and three months' time was sought for on behalf of the investigation agency by the Additional Superintendent of Police, CBCID, to complete the investigation. This Court vide its order, dated 05.01.2016 grants two months further time for the Investigating Officers to complete the investigation and posted the case on 07.03.2016.

10. While the case was taken up for hearing on 07.03.2016, a Status Report filed seeking further time for completion of investigation, which is in progress and this Court granted time till 01.06.2016 for completing the investigation and also to file the final report. While the case was taken up for hearing on 01.06.2016, R5 filed the status report and the case was posted again on 15.06.2016 and thereafter, after granting sufficient time to the respondents the case was taken on 29.06.2016 this Court has granted further six weeks time to complete the investigation and posted the case on 10.08.2016, considering the request of the respondent, after perusal of the Status Report, dated 01.06.2016. While the case was taken up for hearing again on 10.08.2016, this Court granted further 2 months' time to complete the investigation considering the status report, dated 06.08.2016 and posted the case to 17.10.2016. While the case was taken up for hearing again on 19.06.2016, after perusal of the Status Report, dated 15.10.2016 filed on 19.10.2016, this Court has granted a further time of 3 months to complete the investigation, as requested by the 4th respondent, considering some progress in the investigation, as per the above Status Report, and directed the mater to be listed on 18.01.2017. While the case was taken on 18.01.2017, this Court taken into the consideration of the Status Report filed by R4 and directed to adopt the elimination method by following any special procedures and to file the charge sheet after detecting the assailants and granted time till 20.04.2017, as a last chance, on request by R4, failing which, this Court would be constrained to transfer the investigation to some other agency, as prayed for by the petitioner herein.



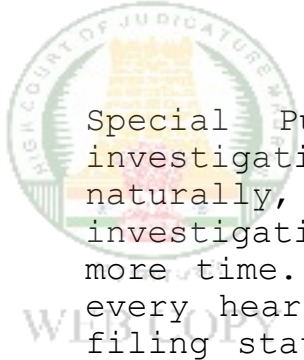
11. While the case was taken on 20.04.2017, the 4th respondent filed his Status Report, dated 20.04.2017, seeking further 4 months' time to detect the accused and on perusal of the report, this Court posted the case for final hearing, since sufficient time and opportunities were given to the 4th respondent, for completing the investigation and for filing the final report.

12. On the occurrence on 29.03.2012 an FIR was registered on 29.03.2012. The investigation was also transferred to R4 from R5 on 27.06.2012 and on the same day, the investigation was taken up by R4. Since the investigators did not make any progress and the investigation conducted by R1 to R4 is not inspired any confidence and the attitude of the respondents 1 to 4, in nab the real culprits, the petitioner, who is the wife of the deceased Ramajayam, who had been very prominent person in the locality and also in the State of Tamil Nadu filed this petition before this Court on 10.12.2014 under Section 482 of Cr.P.C., seeking transfer the investigation of the case from R4 to R6.

13. The learned Senior Counsel appearing for the petitioner would submit that the petitioner is having a genuine apprehension in her mind that the State Police, under the control of the ruling party, ie., AIADMK, would not investigate and find out the truth behind the murder of the deceased Ramajayam, who was closely associated with DMK Political party, which is a powerful opponent to the ruling party, who is also the younger brother of one Mr.K.N.Nehru, who is the District Secretary and also served as a Cabinet Minister thrice in the DMK Government. He would further submit that the CBCID claims that there were several motive due to which they are not in a position to proceed with a case and sofar no one was fixed as accused, since five years and one month is over.

14. It is pertinent to note that even after hearing of this case and pending till date, the CBCID has not chosen to come forward with the fact that the accused is fixed after completion of the investigation of the case. Whenever this case is posted for expediting the investigation process, the Investigating Officer has been seeking time for completing the investigation and to file the final report, by filing status report on several occasions. Whatever time for completing the investigation, as prayed for by the Investigating Officer has been granted by this Court considering the contents of the Status Report filed by the 4th respondent herein. On every hearing this Court is having conscious and confidence upon the State Agency / R1 to R4 for completing the investigation by granting sufficient time. In one occasion also, the counsel for the petitioner submitted that the petitioner got faith on the present investigating team and believes that they may crack the crime and had no objection to grant time for them to do the investigation.

15. This Court also considers the request made by the CBCID, because the Superintendent of Police, who was present before this Court and also considered the submissions made by the learned



Special Public Prosecutor for CBI cases also that, if the investigation at this stage is transferred to the CBI, quite naturally, the Investigating Officer will have to commence the investigation from the beginning, which would again consume some more time. Even after the orders of this Court, dated 24.07.2015 every hearing subsequent to that day R4 got time continuously by filing status report till the final hearing of this case. Though more than 2 years is elapsed, the investigation is not yet completed and the accused is also not yet fixed by the CBCID even after hearing this application till date. The counsel for the petitioner would contend that going by the passage of time, they are losing their faith in the present in the investigating officer. This Court also reposes confidence upon the state Police that their investigation would crack the crime, but it ends in vain, because the accused is not yet fixed by R4, even after granting sufficient time.

16. The learned Special Public Prosecutor for CBI cases, refers the following decisions of the Hon'ble Apex Court in ***State of West Bengal and Others Vs. Committee for Protection of Democratic Rights, West Bengal and Others*** reported in ***(2010) 3 Supreme Court Cases 571***, wherein it has been held that "the extraordinary power directing to investigate a cognizable offence in a state by CBI without consent of the State Government, must be exercised sparingly, cautiously and in exceptional situation where it becomes necessary to provide credibility to and instil confidence in investigations or where the incident may have national and international ramifications or where such an order may be necessary for doing complete justice and enforcing the fundamental rights, on being satisfied that the material discloses a *prima facie* case for investigation by CBI".

17. In this case on hand also, to overcome all possibilities of suspicion either in the minds of the family members of the deceased or in the minds of the public at large with regard to the investigation of the mysterious death of a prominent person and also a politician of the opponent party, this case can be transferred to the Central Bureau of investigation, for conducting the investigation to find out the truth behind the suspected murder from the threshold and for filing the final report in accordance with law. Hence, this Court is inclined to allow this application.

18. In the result, this Criminal Original Petition is allowed by transferring the investigation of the case in Crime No.128 of 2012, pending on the file of the Inspector of Police, Thillai Nagar Police Station, Tiruchirappalli / the 5th respondent herein and investigated by the Deputy Superintendent of Police, CBCID, Tiruchirappalli / R4, to the other investigating agency viz., Central Bureau of Investigation. Accordingly, the Joint Director, Central Bureau of Investigation (CBI), Chennai / R6, is directed to nominate an efficient Officer, directing him to investigate and complete the investigation and to file a final report before the concerned Court, preferably, within a period of three months from



the date of receipt of a copy of this order, in accordance with law. All the relevant materials collected till now shall be handed over by the State Police to the CBI forthwith.

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Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Director General of Police,
Police Head Quarters,
Office of Director General of Police,
Beach Road, Chennai.
2. The Inspector General of Police,
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6. The Joint Director,
Central Bureau of Investigation (CBI),
III Floor, E.V.K.Sampathy Building,
College Road, Chennai.
7. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
8. The Special Public Prosecutor for CBI Cases,
Madurai Bench of Madras High Court, Madurai.

+ 1 CC TO Mr.S.RAVI, ADVOCATE IN SR No. 85566

MPK

TE/MR-KKR/SAR-4 : 30/11/2017 : 8P/10C