



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.09.2017

CORAM

WEB COPY

THE HONOURABLE **MR. JUSTICE S.S.SUNDAR**CRL.OP.(MD).No.10938 of 2017

Valliammal

...Petitioner

Vs.

State represented by

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

2.The Superintendent of Police,
Virudhunagar District.

3.The Inspector of Police,
Sattur Taluk Police Station,
Virudhunagar District.

...Respondents/Complainants

PRAYER: This Criminal Original Petition filed under Section 482 of the Criminal Procedure code, praying to direct to withdraw the case in Crime No.174 of 2017, dated 01.06.2017 pending on the file of the 3rd respondent herein and direct the 1st respondent to entrust the investigation to some other investigating Officer and also direct the 2nd respondent to monitor the investigation and the new investigating Officer to effectively investigate and to file final report in accordance with law.

For Petitioner

:Mr.N.Mohideen Basha

For Respondents

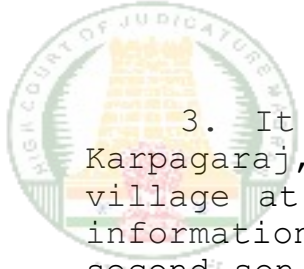
:Mr. K.Anbarasan

Government Advocate (Crl.Side)

O R D E R

This Criminal Original petition has been filed to withdraw the criminal case in crime No.174 of 2017 from the 3rd respondent and direct the first respondent to entrust the investigation to some other investigating Officer and also direct the 2nd respondent to monitor the investigation and the new investigating Officer to effectively investigate and to file a final report in accordance with law.

2. The petitioner is the wife of the de facto complainant, namely Kottaisamy, in Crime No.174 of 2017 for alleged offence under Section 174 of Cr.P.C., pending on the file of the 3rd respondent herein.



3. It is stated that the petitioner's second son viz., one Karpagaraj, after his marriage was living with his wife at wife's village at Sadaiyampatti village. It is stated that based on the information that was furnished to the petitioner's husband that her second son Karpagaraj fell down from the Neem tree and got injured in his head, a complaint was given on the first occasion by the de facto complainant namely, the husband of the petitioner stating that his son deceased fell down from the Neem tree and that he died latter, due to injury sustained when he fell down from the tree.

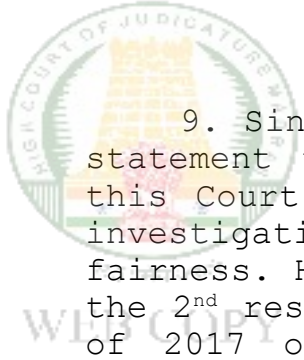
4. However, the wife of the deceased who immediately rushed to the hospital has given a complaint to the Superintendent of Police on the basis of the information furnished by her husband viz., the deceased about the cause of death. In the complaint, the wife of the deceased has stated that her husband was taken by five individuals and that her husband was brutally attacked by two of them including the maternal uncle of the deceased. It is also the complaint of the petitioner that his son was murdered by the above individuals.

5. The learned counsel appearing for the petitioner submits that though this informations were given by the petitioner and her daughter-in-law, the Investigating Officer viz., the 2nd and 3rd respondents have not even enquired the petitioner or petitioner's daughter-in-law, who has given specific information about the fact that the deceased was taken by the individuals and that the deceased was attacked brutally by them.

6. The third respondent has filed a detailed counter denying the statement of the petitioner as well as the petitioner's daughter in law in the written complaints given by them to the 2nd respondent.

7. The petitioner has come up with this petition seeking transfer of investigation from the 3rd respondent to any other Investigating Agency.

8. The fact that the petitioner's son died on "Cranio Cerebral injuries" as per the opinion of the Doctor, who conducted the postmortem is not in dispute. The deceased was not under the influence of alcohol at the time of falling from the tree. There is no necessity for a married man to limb a tree for no purpose. This position when put to the learned Government Advocate (Crl. Side) an explanation came from him stating that the wife of the deceased has given a statement that her husband was not mentally all right. The fact that the wife has given a complaint on 14.07.2017 to the 2nd respondent about the information of her husband, when she saw him in the hospital before his death. In the complaint it is stated by the wife of the deceased that her husband before he died spoke to her about the brutal attack on him by named individuals.



9. Since there is a controversy between the complainant and the statement that has been obtained from the wife of the deceased, this Court is of the view that this is a fit case, in which, the investigation should be transferred to some other agency to ensure fairness. Hence, the above criminal Original Petition is allowed and the 2nd respondent is directed to withdraw the case in Crime No.174 of 2017 on the file of the 3rd respondent and to entrust the investigation to some other Investigating Officer or Agency and to ensure a proper investigation under the supervision of the second respondent himself. The new Investigation Officer who may be entrusted by the 2nd respondent is directed to file a final report as expeditiously as possible preferably within a period of six months from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

- 1.The Director General of Police,
Dr.Radhakrishna Salai,
Mylapore, Chennai - 600 004.
- 2.The Superintendent of Police,
Virudhunagar District.
- 3.The Inspector of Police,
Sattur Taluk Police Station,
Virudhunagar District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/s.N.MOHIDEEN BASHA Advocate in SR. No. 76421
DAS/TRP
JS/SKN.RSK/SAR.4/20.09.2017/3P-6C

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