



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.05.2017

CORAM:

THE HON'BLE MR.JUSTICE P.N.PRAKASHCrl.O.P.(MD)No.12077 of 2016 and
Crl.M.P.(MD)No.5754 of 2016

M.John Joseph,

... Petitioner

-vs-

1.The Superintendent of Police,
Tirunelveli District,
Tirunelveli.

2.The State rep.by
The Inspector of Police,
Surandai Police Station,
Tirunelveli Distric.

3.The Inspector of Police,
CBCID Wing,
Tirunelveli Circle,
Tiruvelveli.

.. Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. Praying to pass an order withdrawing the investigation in connection with Crime No.75 of 2016 on the file of the Inspector of Police, Surandai Police Station, Tirunelveli District and transfer the same to some other agency more particularly the 3rd respondent for effective investigation in the manner known to law by altering the said crime to one under Section murder and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

For Petitioner : Mr.Palani Velayutham

For Respondents : Mr.A.P.Balasubramani
Govt. Advocate (crl.side)**O R D E R**

This petition has been filed, seeking to withdraw the investigation in connection with Crime No.75 of 2016 on the file of the 2nd respondent police and transfer the same to some other agency, more particularly the 3rd respondent for effective investigation in the manner known to law by altering the offences.

<https://hcservices.ecourts.gov.in/hcservices/>

2. On the complaint lodged by one Maria Arul / father of the



petitioner that he was assaulted by three accused, the respondent police registered a case in Crime No.75 of 2016 on 16.04.2016 under Sections 294(b), 323, 324 and 506(2) IPC. While so, Maria Arul died on 30.04.2016 and therefore, his son John Joseph / petitioner herein is before this Court for a direction to the respondent police to conduct further investigation of the case.

3. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) appearing for the State.

4. Learned counsel for the petitioner submitted that Maria Arul suffered serious injuries and therefore, the police should have registered a case under Section 307 IPC and not under Section 323 IPC.

5. Learned Government Advocate (Crl.Side) submitted that the investigation in Crime No.75 of 16 was completed and a charge sheet was filed in C.C.No.516 of 2016 before learned Judicial Magistrate, Alangulam and the trial is pending.

6. This Court gave its anxious consideration to the rival submissions.

7. It is seen that the injuries suffered by Maria Arul were found to be simple in nature as could be seen from the opinion given by the Government Doctor, District Headquarters Hospital, Thenkasi, where he was admitted on 16.04.2016 and discharged on 23.04.2016 and thereafter, Maria Arul suffered acute pulmonary edema and subsequently, he died on 30.04.2016. Therefore, there is no nexus between the assault by the accused and the death of Maria Arul.

8. Learned counsel for the petitioner produced a photograph to show the serious nature of injuries suffered by Maria Arul. However, when Doctor's opinion is to the effect that the injuries suffered by him were simple in nature, this Court cannot look into the photograph and order fresh investigation. That apart, admittedly in this case, investigation has been completed and a charge sheet has been filed and therefore, without hearing the accused, further investigation cannot be ordered by this Court, as in this petition, the petitioner has not impleaded the accused as party.

9. In the result, this petition is dismissed. If during the trial, additional materials surface, it is needless to state that the charges may be altered under Section 216 Cr.P.C. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(RTI)



To:

- 1.The Superintendent of Police,
Tirunelveli District,
Tirunelveli.
- 2.The Inspector of Police,
Surandai Police Station,
Tirunelveli Distric.
- 3.The Inspector of Police,
CBCID Wing,
Tirunelveli Circle,
Tiruvelveli.
- 4.The Additional Public Prosecutor
Madurai Bench of Madras High Court,
Madurai.

+1 cc to M/R.S.PALANI VELAYUTHAM ,Advocate, SR.NO:55796

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04.05.2017

MM/AR
SVA/RSK/12.05.2017/3P/6C