



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.09.2017

CORAM :

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL OP(MD)No.23870 of 2016

WEB COPY

Francis

: Petitioner

Vs.

1. The Joint Director,
Central Bureau of Investigation,
Chennai.

2. The Superintendent of Police,
Kanyakumari District,
Nagercoil.

3. The Inspector of Police,
Arumanai Police Station,
Arumanai Post,
Kanyakumari District.

: Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, directing the 2nd respondent to withdraw the case in Crime No.380 of 2010 on the file of the 3rd respondent and transfer the case to 1st respondent or to any another agency which is competent to deal with the matter.

For Petitioner : Mr.Hari Prasad

For Respondents : Mr.K.Anbarasan,

Government Advocate(Crl.Side).

O R D E R

This Criminal Original Petition is filed for issuing a direction to the 2nd respondent directing him to withdraw the case in Crime No.380 of 2010 on the file of the 3rd respondent and transfer the case to 1st respondent or to any another agency which is competent to deal with the matter.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal side) appearing for the respondents.

3.The petitioner has filed this petition to transfer the investigation alleging that the 3rd respondent who has been entrusted with the investigation has not conducted investigation

in a proper manner and that there are several lapses on his part.

4. The learned counsel appearing for the petitioner pointed out from the counter affidavit filed by the 3rd respondent that the contents of the viscera collected at the time of post mortem conducted over the body of the deceased Christopher has not yet been sent to the Forensic Science Laboratory through the competent Court for getting chemical analysis report which was entrusted to the Head Constable, Mr. Nesamany. It is further stated that non despatch of the contents of the viscera to the Court is not wanton or wilful as the case was disposed of on the merits of the evidences collected from the public witnesses and through the opinion of the Post Mortem Doctor who conducted post mortem. It is seen from the report of the Medical Officer who conducted autopsy on the dead body of the deceased that the Post Mortem though concluded at 3.15 p.m on 28.12.2010 opinion as to the cause of death was reserved due to the pendency of report of Chemical Analysis. From this, it is clear that the final report itself has been filed, even without the opinion of the medical officer who conducted the post mortem as to the cause of death. This is a clear lapse on the part of the Investigation Officer. The 3rd respondent also justify this by stating that the previous inspector who was the investigation officer has done proper investigation.

5. Hence this Court is inclined to pass the following direction:-

"The 2nd respondent is directed to withdraw the case of Cr.No.380 of 2010 on the file of the 3rd respondent and to transfer the same to any other officer as the case may be either to CBCID or any other officer of his choice and conduct fresh investigation under the supervision of the 2nd respondent himself.

6. Accordingly, this criminal original petition is disposed of.

Sd/-
Assistant Registrar (CS-I)

/True copy/

Sub Assistant Registrar

To

1. The Joint Director,
Central Bureau of Investigation,



2. The Superintendent of Police,
Kanyakumari District,
Nagercoil.

3. The Inspector of Police,
Arumanai Police Station,
Arumanai Post,
Kanyakumari District.

+ 1 CC TO MR.Hari Prasad, ADVOCATE IN SR No.80578
MK/JC/SAR-1/24.10.2017/3P/5C

CRL OP (MD) No.23870 of 2016
21.09.2017