

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.04.2018

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

Cr1.O.P.No.10326 of 2018

Jebamalai Mary

... Petitioner

vs.

1.The Superintendent of Police,
Salem District.

2.The Inspector of Police,
Mettur Police Station,
Salem District.

... Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. seeking to issue direction for transferring the investigation in Crime No.127 of 2016 pending on the file of the 2nd respondent police to Crime Branch Central Investigation Department (CBCID), Salem and consequently, direct the Crime Branch Central Investigation Department (CBCID), Salem to conduct further investigation by an officer of not below the rank of Deputy Superintendent of Police and conclude the investigation within the time stipulated by this Court.

For petitioner : Mr.J.Prakasam

For respondents : M/s.P.Kritika Kamal

Government Advocate (Criminal Side)

ORDER

This Criminal Original Petition has been filed seeking a direction to transfer the investigation in Crime No.127 of 2016 pending on the file of the 2nd respondent police to Crime Branch Central Investigation Department (CBCID), Salem and consequently, direct them to conduct further investigation by an officer not below the rank of Deputy Superintendent of Police and conclude the investigation.

2.Stella got married to Francis Xavier on 04.05.2009 and they have one female child through the wedlock. On account of matrimonial discord, the relationship got strained. While so, on 07.10.2016, the petitioner, who is the mother of Stella, received information from the neighbours that Stella had

consumed poison and has been admitted to the hospital. Therefore, she rushed to the hospital and found that Stella had died. The police registered a case in Crime No.127 of 2016 on 08.03.2016 under Section 174 (3) Cr.P.C. and the Revenue Divisional Officer conducted inquest over the body of Stella. In the inquest proceedings, several witnesses were examined including Francis Xavier and his parents. The Revenue Divisional Officer concluded that there was no dowry harassment, however, directed the police to proceed with the investigation. Thereafter, the police altered the First Information Report from 174 Cr.P.C to Sections 498-A and 306 IPC and arrested Francis Xavier. After completing the investigation, the police have filed a charge sheet in C.C.No.15 of 2016 before the Judicial Magistrate-I, Mettur against Francis Xavier for the offence under Sections 498-A, 306 IPC and Section 4 of the Women Harassment Act. Not satisfied with the investigation, the petitioner has filed the present petition for re-investigation of the case on the allegation that her daughter, Stella did not commit suicide, but was murdered by Francis Xavier.

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

4. The learned counsel for the petitioner would submit that in the statement given by Francis Xavier to the Revenue Divisional Officer, he has stated that while he was feeding his daughter, his wife went to the adjoining room and hanged herself; that on coming to know of it, he pulled her body down and informed his parents that Stella had committed suicide.

5. The learned counsel further submitted that the parents of Stella have given a statement to the Revenue Divisional Officer to the effect that Francis Xavier called them over phone and told them that Stella had fallen on the ground. Hence, there is a contradiction in the statement of Francis Xavier and his parents and therefore, it is probable that Francis Xavier must have murdered Stella but, he made it as if it was a suicide.

6. This court gave its anxious consideration to the submissions made by the learned counsel for the petitioner.

7. On a perusal of the post-mortem report, it is seen that, the doctor has clearly given an opinion that death is due to hanging and there is also ligature mark around the neck. The Post-mortem report further shows that there was no poison in the stomach and intestinal contents. Thus, on the mere contradiction in the statement between the accused and his parents to the Revenue Divisional Officer, it cannot be inferred

that the accused has murdered Stella and hanged her. Injuries found on Stella do not support the version offered by the petitioner.

8.Hence, this Court does not find any infirmity in the investigation conducted by the police warranting interference. It would suffice if the petitioner gives proper evidence in the court and the trial court shall appreciate the same in accordance with law.

With the above observation, this petition is closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1.The Superintendent of Police,
Salem District.

2.The Inspector of Police,
Mettur Police Station,
Salem District.

3.The Public Prosecutor,
High Court, Madras.

Crl.O.P.No.10326 of 2018

GMI (CO)

RRK(02/05/2018)

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